FEDERAL REGISTER

VOLUME 6 NUMBER 108

Washington, Wednesday, June 4, 1941

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

[Wheat 507]

PART 728—WHEAT

SUBPART C—1941

Regulations Pertaining to Wheat Marketing Quotas for the 1941 Crop of Wheat

By virtue of the authority vested in the Secretary of Agriculture by Title III of the Agricultural Adjustment Act of 1938 (Public Law No. 430, 75th Congress, approved February 16, 1938; 52 Stat. 31; 7 U.S.C. 1301 *et seq.*), as amended, and Public Law No. 74, 77th Congress, approved May 26, 1941, I do make, prescribe, publish, and give public notice of the following regulations governing wheat marketing quotas for the 1941 crop of wheat, to be in force and effect until amended or superseded by regulations hereafter made by the Secretary of Agriculture or acting Secretary of Agriculture under said Act.[1]

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Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.25 per month or $12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

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DEFINITIONS AND ISSUANCE OF FORMS AND INSTRUCTIONS

§ 728.221 *Issuance of forms and instructions and definitions*—(a) *Issuance of forms and instructions.* The Administrator of the Agricultural Adjustment Administration shall cause to be prepared and issued with his approval such instructions and such forms as may be required to carry out the regulations in this part. Copies of such forms and instructions shall be furnished free to persons needing them upon request made to the office of the appropriate county committee or the Administrator.

(b) *Definitions.* As used in the regulations in this part and in all forms and documents in connection therewith, unless the context or subject matter otherwise requires, the following terms shall have the following meanings and the masculine shall include the feminine and neuter genders and the singular shall include the plural:

(1) "Act": The Agricultural Adjustment Act of 1938 and any amendments thereto.

(2) "Resolution": Public Law No. 74, 77th Congress, approved May 26, 1941.

(3) "Secretary of Agriculture": The Secretary of Agriculture of the United States.

(4) "Administrator": The Administrator of the Agricultural Adjustment Administration of the United States Department of Agriculture.

(5) "Regional director": The director of the division of the Agricultural Adjustment Administration in charge of the administration of sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act (49 Stat. 1148), as amended (hereinafter referred to as the Soil Conservation and Domestic Allotment Act), in the region.

(6) "Western region": The area included in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

(7) "North Central region": The area included in the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Wisconsin.

(8) "Southern region": The area included in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Oklahoma, South Carolina, and Texas.

(9) "East Central region": The area included in the States of Delaware, Kentucky, Maryland, North Carolina, Tennessee, Virginia, and West Virginia.

(10) "Northeast region": The area included in the States of Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

(11) "State committee": The group of persons appointed by the Secretary of Agriculture to assist within any State in the administration of the Soil Conservation and Domestic Allotment Act.

(12) "Committee": A committee within a county or community utilized under the Soil Conservation and Domestic Allotment Act. "County committee," "community committee," or "local committee" shall have corresponding meanings in the connection in which they are used.

(13) "Treasurer of the county committee": The treasurer of the county agricultural conservation association or the treasurer of the county committee, as the case may be.

(14) "Review committee": The review committee appointed by the Secretary of Agriculture as provided in section 363 of the Act.

(15) "Person": An individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other legal entity, or a State or an agency thereof. The term "person" shall include two or more persons having a joint or common interest.

(16) "Owner or landlord": A person who owns farm land and rents such land to another person or operates such land.

(17) "Tenant": A person who rents land from another person (for cash, a fixed-commodity payment, or a share of the crops or their proceeds) and is entitled under a written or oral lease or agreement to receive all or a share of the crops or their proceeds produced thereon.

(18) "Sharecropper": A person who works a farm in whole or in part under the general supervision of the operator and is entitled to receive for his labor a share of a crop produced thereon or the proceeds thereof.

(19) "Operator": A person who as owner, landlord, or tenant is operating a farm.

(20) "Producer or farmer": A person who, as owner, landlord, tenant, or sharecropper, is entitled to all or a share of the wheat crop or the proceeds thereof produced on the farm in 1941.

(21) "Buyer": A person who buys wheat.

(22) "Transferee": A person who acquires wheat from a producer or any other person by barter, exchange, or gift *inter vivos.*

(23) "Intermediate buyer": Any buyer or transferee who purchases or acquires any wheat prior to the time the wheat so purchased or acquired has been marketed to a warehouseman, elevator operator, feeder, or other processor.

(24) "Farm": All adjacent or nearby farm land under the same ownership which is operated by one person, including also:

(i) Any other adjacent or nearby farm land which the county committee, in accordance with instructions issued by the

Agricultural Adjustment Administration, determines is operated by the same person as part of the same unit with respect to the rotation of crops and with workstock, farm machinery, and labor substantially separate from that for any other land; and

(ii) Any field-rented tract (whether operated by the same or another person) which, together with any other land included in the farm, constitutes a unit with respect to the rotation of crops.

A farm shall be regarded as located in the county or administrative area, as the case may be, in which the principal dwelling on the farm is situated or if there is no dwelling thereon it shall be regarded as located in the county or admiinstrative area, as the case may be, in which the major portion of the farm is located.

(25) "Non-allotment farm": A farm classified as a non-wheat-allotment farm under the 1941 Agricultural Conservation Program (formulated under the Soil Conservation and Domestic Allotment Act).

(26) "Allotment farm": A farm classified as a wheat-allotment farm under the 1941 Agricultural Conservation Program.

(27) "Farm acreage allotment": A wheat acreage allotment established for a farm under § 728.225.

(28) "Acreage of wheat": In the case of an allotment farm, the acreage seeded to wheat, plus any acreage of volunteer or "self-seeded" wheat which is not disposed of in accordance with instructions issued by the Agricultural Adjustment Administration, but before the maturity of the wheat, and in the case of a non-allotment farm, the acreage of wheat harvested as grain or in any manner after the wheat matures as grain: *Provided*, That an acreage not in excess of the larger of 3 acres or 3 percent of the farm acreage allotment for the farm, unintentionally planted in excess of the farm acreage allotment for the farm, will not be considered as seeded to wheat if disposed of in a manner and within the time specified by the Regional Director. Wheat seeded in a mixture will not be considered acreage of wheat if the mixture may reasonably be expected to produce a crop containing such proportions of plants other than wheat that the crop cannot be harvested as wheat for grain or seed. If, however, such crops other than wheat fail to reach maturity and the wheat does reach maturity, the acreage devoted to such crops will be considered to be acreage of wheat.

(29) "Excess wheat acreage": An acreage of wheat determined for the farm under § 728.233 or § 728.268 to 728.273, inclusive, whichever is applicable.

(30) "Normal yield": The number of bushels of wheat established as the normal yield per acre for the farm under § 728.226.

(31) "Actual yield": The number of bushels of wheat determined by dividing the number of bushels of wheat produced on the farm in 1941 by the 1941 acreage of wheat on the farm.

(32) "Normal production of any number of acres": The normal yield per acre of wheat for the farm times such number of acres.

(33) "Actual production of any number of acres": The actual yield of wheat per acre for the farm times such number of acres.

(34) "Carryover wheat": The number of bushels of wheat of any previous crop which the producer had on hand at the beginning of the harvest of the 1941 crop.

(35) "Farm marketing quota": The wheat marketing quota established under the Act and Resolution for the farm for the 1941 crop.

(36) "Farm marketing excess": The amount of wheat determined for any farm under §§ 728.233, 728.235, or §§ 728.268 to 728.273, inclusive, whichever is applicable.

(37) "Marketing year": The period beginning on July 1, 1941, and ending with June 30, 1942, both dates inclusive.

(38) "Market": To dispose of wheat, in raw or processed form, by voluntary or involuntary sale, barter, or exchange, or by gift *inter vivos*, or by feeding (in any form) to poultry or livestock which, or the products of which, are sold, bartered, or exchanged, or are to be so disposed of, but does not include disposing of wheat as premium to the Federal Crop Insurance Corporation.

(i) The term "sale" means any transfer of title to wheat by a producer by any means other than barter, exchange, or gift *inter vivos*.

(ii) The terms "barter" and "exchange" mean transfer of title to wheat by a producer in return for wheat or other commodities, services, or property in cases where the value of the wheat or such other commodities, services, or property is not considered in terms of money, or the transfer of title to wheat by a producer in payment of a fixed rental or other charge for land, or the payment of an amount of wheat in lieu of a cash charge for harvesting or milling wheat (commonly called "toll wheat").

(iii) The term "gift *inter vivos*" means any transfer of title accompanied by delivery of wheat by a producer which takes effect immediately and irrevocably and is made without any consideration or compensation therefor.

(iv) "Marketed," "marketing," and "for market" shall have meanings corresponding to the term "market" in the connection in which they are used.

(39) "Penalty": The penalty provided in paragraph 2 of the Resolution. (Sec. 375, 52 Stat. 66, 7 U.S.C. 1375.)

ALLOTMENTS AND YIELDS

§ 728.222 *National acreage allotment.* The national acreage allotment of wheat for the 1941 crop of wheat was determined by the Secretary of Agriculture to be 62,000,000 acres, as published in the FEDERAL REGISTER on May 15, 1940, Vol. 5, p. 1725 (daily edition). The national acreage allotment for the 1941 crop of wheat is the acreage which the Secretary of Agriculture so determined would, on the basis of the national average yield of wheat, produce an amount of wheat adequate, together with the estimated carryover on July 1, 1941, to make available a supply for the marketing year beginning July 1, 1941, equal to a normal year's domestic consumption and exports plus 30 per centum thereof. National average yield of wheat is the national average yield per acre of wheat during the ten calendar years 1930–39, adjusted for abnormal weather conditions and for trends in yields. Carryover of wheat for the 1941–42 marketing year is the quantity of wheat on hand in the United States on July 1, 1941, not including any wheat which was produced in the United States in 1941, and not including any wheat held by the Federal Crop Insurance Corporation. Normal year's domestic consumption of wheat is the yearly average quantity of wheat, wherever produced, that was consumed in the United States during the ten marketing years 1929–30 to 1938–39, adjusted for current trends in such consumption. Normal year's exports of wheat is the yearly average quantity of wheat produced in the United States that was exported from the United States during the ten marketing years 1929–30 to 1938–39, adjusted for current trends in such exports. (Sec. 333, 52 Stat. 53, 775, 53 Stat. 1125, 7 U.S.C. 1333)

§ 728.223 *State acreage allotments.* The national acreage allotment of wheat for the 1941 crop was apportioned among the several States on the basis of the acreage seeded for the production of wheat during the ten calendar years 1930–1939 (plus, in applicable years, the acreage diverted under previous agricultural adjustment and conservation programs), with adjustments for abnormal weather conditions and for trends in acreage during such period. The State acreage allotments for the 1941 crop of wheat were determined by the Secretary of Agriculture, as published in the FEDERAL REGISTER on May 15, 1940, Vol. 5, p. 1726 (daily edition). (Sec. 334 (a), 52 Stat. 53, 7 U.S.C. 1334 (a))

§ 728.224 *County acreage allotments.* Each State acreage allotment for the 1941 crop of wheat was apportioned by the Secretary of Agriculture among the counties in the State on the basis of the acreage seeded for the production of wheat during the ten calendar years 1930–39 (plus, in applicable years, the acreage diverted under previous agricultural adjustment and conservation programs), with adjustments for abnormal weather conditions and trends in acreage during such period and for the promotion of soil-conservation practices. Said county acreage allotments of wheat were published in the FEDERAL REGISTER on May 2, 1941, Vol. 6, p. 2226 (daily edition). (Sec. 334 (b), 52 Stat. 53, 203, 7 U.S.C. 1334 (b))

§ 728.225 *Farm acreage allotments.* Each county acreage allotment for the 1941 crop of wheat was apportioned by

the Secretary of Agriculture, through the local committees, among the farms within the county on the basis of tillable acres, crop-rotation practices, type of soil, and topography. Not more than 3 per centum of such county allotment was apportioned to farms on which wheat had not been planted for the 1938, 1939, or 1940 crop. (Sec. 334 (c), 52 Stat. 53, 7 U.S.C. 1334 (c))

§ 728.226 *Normal yields*—(a) *Farms for which normal yields were determined.* The Secretary of Agriculture, through the local committees in each county, determined the normal yield per acre of wheat for each farm on which wheat was planted for the 1941 crop.

(b) *Yields based on reliable records.* Where reliable records of the actual average yield of wheat per acre for all of the ten years 1930 to 1939, inclusive, were presented by the farmer or were available to the county committee, the normal yield per acre of wheat for the farm was determined to be the average of such yields, adjusted for abnormal weather conditions and trends in yields.

(c) *Appraised yields.* If for any year of the 10-year period 1930 to 1939, inclusive, (1) records of the actual average yield were not available, or (2) there was no actual yield, the normal yield per acre of wheat for the farm was appraised by the county committee, taking into consideration abnormal weather conditions, the normal yield for the county, and the yields in years for which data were available. The appraised yields so obtained were adjusted in accordance with paragraph (d) of this section.

(d) *Adjustments in appraised yields.* The yields determined under paragraph (c) were adjusted so that the average of the normal yields per acre of wheat determined for all farms in the county (weighted by the wheat acreage allotments established for such farms) was not in excess of the county normal yield per acre of wheat established for 1941 by the Secretary of Agriculture and published in the FEDERAL REGISTER on January 3, 1941, vol. 6, p. 45 (daily edition). (Sec. 301 (b) (13) (A) and (E), 52 Stat. 41, 42, 202, 54 Stat. 727, 1211, 7 U.S.C. 1301 (b))

§ 728.227 *Applicability of detailed instructions.* The detailed instructions for carrying out the provisions of §§ 728.222 through 728.226 are contained in the following documents:

"Regulations Pertaining to Farm Acreage Allotments and Normal Yields for the 1941 Crop of Wheat (as revised)," issued by the Secretary of Agriculture, published in the FEDERAL REGISTER on March 26, 1940, and on April 23, 1941, Vol. 5, p. 1148, and Vol. 6, p. 2077 (daily editions), respectively.

East Central Region: ECR–437, "1941 Wheat Allotment Procedure."

North Central Region: NCR–510–W, "Instructions for Determining Wheat Acreage Allotments for 1941."

Northeast Region: NER–501, "Procedure for Determining Wheat Acreage Allotments."

Southern Region: SRB–502, "Instructions for Determining Farm Wheat Acreage Allotments and Normal Yields under the 1941 Agricultural Conservation Program."

Western Region: WR–501, "County Office Procedure for Determining 1941 Farm Acreage Allotments, Yields, Productivity Indexes, and Carrying Capacities of Noncrop Pasture, and for preparing Notification to Farmers and for Handling Appeals." (Sec. 375, 52 Stat. 66, 7 U.S.C. 1375)

FARM IDENTIFICATION AND MEASUREMENTS

§ 728.228 *Identification of farms.* Each farm as operated in the calendar year 1941 shall be identified by a farm serial number for the marketing year, assigned by the county committee, which shall not be changed, and all records pertaining to marketing quotas for the 1941 crop of wheat for such farm shall carry the farm serial number. (Sec. 374, 52 Stat. 65, 7 U.S.C. 1374)

§ 728.229 *Provision for measuring farms.* The county committee shall provide for measuring each farm in the county on which wheat was seeded for the 1941 crop. The measuring of any farm shall be done in accordance with the established procedure used by the Agricultural Adjustment Administration. (Sec. 374, 52 Stat. 65, 7 U.S.C. 1374)

§ 728.230 *Report of farms for which a farm marketing excess is determined.* A record shall be kept of the measurements made on all farms and there shall be filed with the State committee a written report on form Wheat 514 setting forth for each farm for which a farm marketing excess is determined and to which a penalty is applicable (a) the farm serial number, (b) the name of the operator, (c) the name of each person having an interest in the wheat crop produced thereon in 1941 or in the proceeds thereof, (d) the total acreage in cultivation on the farm, (e) the farm acreage allotment, and (f) the acreage of wheat. (Sec. 374, 52 Stat. 65, 7 U.S.C. 1374)

FARM MARKETING QUOTA

§ 728.231 *Marketing quotas in effect.* Marketing quotas shall be in effect for the 1941 crop of wheat. (Sec. 335 (a), 52 Stat. 54, 7 U.S.C. 1335 (a); Par. 1)

§ 728.232 *Amount of farm marketing quota.* The farm marketing quota for any farm for the 1941 crop of wheat shall be that number of bushels of wheat produced on the farm in 1941 less the amount of the farm marketing excess for the farm. (Sec. 335 (c), 52 Stat. 54, 53 Stat. 1126, 7 U.S.C. 1335 (c); Par. 1)

§ 728.233 *Initial farm marketing excess.* The initial farm marketing excess for any farm shall be the normal production of the excess wheat acreage for the farm. The excess wheat acreage for any farm shall, except as provided in §§ 728.268 to 728.273, inclusive, whichever is applicable, be that acreage of wheat on the farm which is in excess of the farm acreage allotment. The normal production of the excess wheat acreage shall be the normal yield per acre established for the farm times the excess wheat acreage. The initial farm marketing excess shall not be changed or adjusted unless and until it is determined, in accordance with § 728.235, that the actual production in 1941 of the excess wheat acreage is less than the normal production thereof. (Sec. 335 (c), 375 (b), 52 Stat. 54, 66, 53 Stat. 1126, 7 U.S.C. 1335 (c), 1375 (b); Par. 1, 3)

§ 728.234 *Notice of farm marketing quota and farm marketing excess.* As soon as practicable after measurements for a farm are made the county committee shall mail a written notice on form Wheat 513 to the operator of each farm for which a farm marketing quota is applicable. Such notice shall contain 1941 farm information consisting of the State and county code and farm serial number, the name and address of the farm operator, the acreage of wheat, the 1941 wheat acreage allotment, the normal yield, the farm marketing quota, the excess wheat acreage, and the farm marketing excess for 1941. The amount of the farm marketing excess shall be determined in accordance with § 728.233. The notice to the operator shall constitute notice to all persons interested in the 1941 wheat crop and shall contain thereon a brief statement to the effect that, if, upon application to the county committee, in accordance with § 728.235, it is shown that the actual average yield per acre is less than the normal yield for the farm, the amount of the farm marketing excess will be adjusted in accordance with § 728.235. The notice shall contain also a brief statement of the procedure whereby application for a review of the farm marketing quota may be made under section 363 of the Act and a statement that the farm marketing excess may be stored or delivered to the Secretary of Agriculture in order to postpone or avoid the payment of the penalty. A copy of each notice on form Wheat 513, showing the date the notice was mailed to the operator of the farm, shall be kept among the records of the county committee, and upon request a copy thereof, duly certified as true and correct, shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper is interested in the wheat produced in 1941 on the farm for which the notice was given. If measurements cannot be made for any farm, the notice pursuant to this section shall be in the form of a letter, containing the information outlined above with the exception of the 1941 acreage of wheat, the excess wheat acreage, and the farm marketing excess, and notifying the operator that the amount of the farm marketing excess is the

amount of wheat produced in 1941 on the farm until the excess wheat acreage is determined and that it is issued in lieu of the notice on form Wheat 513 because the operator or owner prevented the measurement of the farm. (Sec. 362, 52 Stat. 62, 7 U.S.C. 1362)

§ 728.235 *Adjusted farm marketing excess*—(a) *Farm marketing excess adjusted for actual production.* The initial farm marketing excess as determined pursuant to § 728.233 shall not be adjusted until an application for an adjustment in the amount of the farm marketing excess is made to the county committee. When it is determined by the Secretary of Agriculture, through the county committee, pursuant to such an application, that the actual average yield per acre for the farm is less than the normal yield thereof, the farm marketing excess for the farm shall be adjusted to the amount of the actual production of the excess wheat acreage. The actual production of the excess wheat acreage shall be the actual average yield per acre for the farm times the excess wheat acreage.

(b) *Procedure in connection with an application for an adjustment in the farm marketing excess.* An application for an adjustment in the amount of the farm marketing excess on the basis of actual production may be made by any producer having an interest in the wheat produced in 1941 on the farm. The application shall be made to the county committee not later than 60 days after the threshing of wheat produced on the farm is completed or December 31, 1941, whichever is the earlier. The county committee shall keep a record of each application so made and the time thereof. The county committee shall fix a time at which each application will be considered and shall notify the applicant thereof. Insofar as practicable, applications shall be considered in the order in which made. The county committee shall consider each application on the basis of facts known by or made available to it and on the basis of evidence presented to it by the applicant. The evidence presented by the applicant may be in the form of written statements or other documentary evidence or of oral testimony in a hearing before the county committee during its consideration of the application. In order to expedite the consideration of applications, the county committee shall receive, in advance of the time fixed for consideration of the application, any written statement or documentary evidence offered by or on behalf of the applicant, and the application may be disposed of upon the basis of such statement or evidence, together with other information bearing on or establishing the facts which is available to the county committee, unless the applicant appears before the county committee at the time fixed for considering the application and requests a hearing for the purpose of offering documentary evidence or oral testimony in support of the application. Any such hearing shall be open to the public. The consideration of any application shall be confined to the determination of the amount of wheat actually produced in 1941 on the farm and the applicant shall have the burden of proving that the actual average yield per acre of wheat on the farm in 1941 is less than the normal yield thereof. The county committee shall make its determination in connection with each application not later than five calendar days next succeeding the day on which the consideration of the application was concluded. The determination of the county committee shall be in writing and shall contain (a) a concise statement of the grounds upon which the applicant sought an adjustment in the amount of the farm marketing excess, (b) a concise statement of the findings of the county committee upon the questions of fact, and (c) the determination of the county committee as to the farm marketing quota and the farm marketing excess. A notice on form Wheat 513, plainly marked "Revised", showing the result of the determination made as aforesaid, shall be mailed to the operator of the farm and also to the applicant if he is not such operator. The notice shall contain a brief statement of the procedure whereby application for a review of the farm marketing quota, as affected by the determination of the farm marketing excess, may be made under section 363 of the Act. A copy of each notice, showing the date of mailing, shall be filed, together with such determination, among the records of the county committee, and upon request a copy of the notice or of the determination, duly certified as true and correct, shall be furnished without charge to any person who as operator, landlord, tenant, or sharecropper is interested in the wheat produced in 1941 on the farm. (Sec. 335 (c), 375 (b), 52 Stat. 54, 66, 53 Stat. 1126, 7 U.S.C. 1335 (c), 1375 (b); Par. 3)

§ 728.236 *Publication of farm data.* In addition to the copies of form Wheat 513 required under § 728.234, the county committee shall prepare one additional copy for each farm in the county for which a farm marketing quota is applicable. These additional copies shall be arranged alphabetically by communities and such copies for each community placed in a separate folder. These folders shall be posted in the office of the county committee in such a manner that they will be freely available for public inspection for a period of not less than 30 calendar days and at the end of such period shall be filed so that they will remain readily available for further public inspection. (Sec. 362, 52 Stat. 62, 7 U.S.C. 1362)

§ 728.237 *Marketing quotas not transferable.* A farm marketing quota established for a farm may not be assigned or otherwise transferred in whole or in part to any other farm. (Sec. 338, 52 Stat. 55, 7 U.S.C. 1338)

§ 728.238 *Successors-in-interest.* Any person who suceeds to the interest of a producer in a farm, or in a wheat crop produced on a farm, for which a farm marketing quota and farm marketing excess were established, shall, to the same extent as his predecessor, be entitled to all the rights and privileges incident to such marketing quota and marketing excess and be subject to the restrictions on the marketing of wheat. (Sec. 375 (b), 52 Stat. 66, 7 U.S.C. 1375 (b))

§ 728.239 *Review of quotas*—(a) *Review committees.* Any producer who is dissatisfied with the farm marketing quota or farm marketing excess established for his farm may, by making application within 15 days after the mailing to him of the notice provided for in §§ 728.234 and 728.235, have such marketing quota or marketing excess reviewed by a local review committee composed of three farmers appointed by the Secretary of Agriculture. Unless such application is made within 15 days, the farm marketing quota and farm marketing excess, as determined, shall be final. Applications for review shall be made in accordance with the Review Regulations (38–A.A.A.–2) issued by the Secretary of Agriculture.

(b) *Court review.* If the producer is dissatisfied with the determination of the review committee, he may, within 15 days after notice of such determination is mailed to him by registered mail, institute proceedings against the review committee to have the determination of the review committee reviewed by a court in accordance with section 365 of the Act. (Secs. 363, 364, 365, 52 Stat. 63, 7 U.S.C. 1363, 1364, 1365)

MARKETING CARDS AND CERTIFICATES

§ 728.240 *Producers eligible to receive marketing cards.* The county committee shall issue a marketing card (form Wheat 511) to the operator and, unless the county committee finds that it will not serve a useful purpose, to other producers on each farm, on which wheat is harvested in 1941 and for which (1) no farm marketing excess is determined, (2) the penalty on the farm marketing excess has been paid by the producer, as provided in § 728.251, or by any buyer, as provided in § 728.252, (3) the farm marketing excess has been stored, as provided in § 728.256, or (4) the amount of the farm marketing excess has been delivered to the Secretary of Agriculture, through the county committee, as provided in § 728.257. Each marketing card shall be serially numbered and shall show the names of the State and county and code number thereof and the serial number of the farm, the signature of a member of the county committee, the name and address of the producer to whom issued, the countersignature of the producer to whom the card is issued, or his duly authorized agent, and any other information which the county committee considers to be necessary in identifying the farm for which the marketing card is issued. A marketing card shall not

be issued to any producer on a farm for which measurements cannot be made as provided in § 728.229, nor to any producer not eligible to receive a card under this section, except as provided in §§ 728.268 to 728.272, inclusive. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375 (a))

§ 728.241 *Issuing marketing cards to multiple farm producers.* Any producer who is interested in the production of wheat on more than one farm shall not be issued a marketing card for any farm in which he has an interest as a wheat producer until he is eligible to receive a marketing card for each of such farms in accordance with the provisions of § 728.240. The other producers on a farm for which the multiple farm producer would otherwise be eligible to receive a marketing card shall be issued marketing cards with respect to the farm notwithstanding the ineligibility of the multiple farm producer. Where a producer is engaged in the production of wheat in more than one county, the procedure outlined in this section for issuing marketing cards for multiple farms in a county may be followed with respect to all such farms wherever situated if the county committees of the respective counties so decide, or if the State committee has reason to believe that the procedure would be necessary to enforce the provisions of the Act. Whenever such a procedure is followed, the State committee may require any producer so affected to file with it a list of all farms on which he is engaged in the production of wheat, together with any other pertinent data which are deemed to be necessary in enforcing the Act. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375(a))

§ 728.242 *Certificate that a marketing card was issued.* The county committee shall, upon request, issue a certificate on form Wheat 511-A to any producer to whom a marketing card was issued and who desires to market wheat by telephone, telegraph, mail, or by any means or method other than directly to and in the presence of the buyer or transferee. Each form Wheat 511-A so issued shall show (1) the name and address of the producer to whom issued, (2) the name of the State and county and the code numbers thereof and the serial number for the farm, (3) the serial number of the marketing card issued to the producer for the farm, (4) the signature of a member of the county committee, (5) the name of the buyer or transferee, (6) the number of bushels of wheat involved in the transaction, and (7) the signature of the producer. The original marketing certificate shall be kept by the buyer and the duplicate copy shall be kept in the county office records. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375 (a))

§ 728.243 *Lost, destroyed, or stolen marketing cards or certificates.*—(a) *Report of loss, destruction, or theft.* In case a marketing card or certificate issued to a producer is lost, destroyed, or stolen, any person having knowledge thereof shall, insofar as he be able, immediately notify the county committee of the following: (1) the name of the operator of the farm for which such marketing card or certificate was issued; (2) the name of the producer to whom the marketing card or certificate was issued, if someone other than the operator; (3) the serial number of the marketing card or certificate; (4) the description of the marketing card or certificate; and (5) whether in his knowledge or judgment it was lost, destroyed, or stolen and by whom.

(b) *Investigation and findings of county committee.* The county committee shall make or cause to be made a thorough investigation of the circumstances of such loss, destruction, or theft. If the county committee finds, on the basis of its investigation, that such marketing card or certificate was in fact lost, destroyed, or stolen, it shall cancel such marketing card or certificate by giving notice to the producer to whom the card or certificate was issued that it is void and of no effect. The notice to that effect shall be in writing, addressed to the producer at his last-known address, and deposited in the United States mails. If the county committee also finds that there has been no collusion or connivance in connection therewith on the part of the producer to or for whom the marketing card or certificate was issued, it shall issue to or for him a marketing card or certificate to replace the lost, destroyed, or stolen marketing card or certificate. Each marketing card or certificate issued under this section shall bear across its face in bold letters the word "Duplicate". In case a marketing card is canceled, as provided for in this section, the county committee shall immediately notify the buyers, elevator operators, or warehousemen in the county that the marketing card is canceled and of the issuance of any duplicate. The county committee shall notify the county committee of each adjoining county, which in turn shall notify the elevator operators, warehousemen, and buyers in their respective counties. Any person coming into possession of a canceled marketing card shall immediately return it to the county committee which issued it. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375 (a))

§ 728.244 *Cancelation of marketing cards issued in error.* Any marketing card erroneously issued shall, immediately upon discovery of the error, be canceled by the county committee. The producer to whom such card was issued shall be notified that the card is void and of no effect and that it shall be returned to the county committee. Upon the return of such card, the county committee shall endorse thereon the notation "Canceled". In the event that such marketing card is not returned immediately, the county committee shall immediately notify the elevator operators, warehousemen, and buyers in the county that the marketing card is canceled. The county committee shall also notify the county committees of each adjoining county, which shall in turn notify the elevator operators, warehousemen, and buyers in their respective counties. A copy of each notice provided for in this section, containing a notation thereon of the date of mailing, shall be kept among the records of the county committee. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375 (a))

IDENTIFICATION OF WHEAT

§ 728.245 *Time and manner of identification.* Each producer of wheat and each intermediate buyer shall, at the time he markets any wheat, identify the wheat to the buyer or transferee in the manner hereinafter provided as being subject to or not subject to the penalty and the lien for the penalty provided in the Act and Resolution. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375 (a))

§ 728.246 *Identification by marketing card.* (a) *Wheat marketed by the producer directly to and in the presence of the buyer.* A marketing card (form Wheat 511) shall, when presented to the buyer by the producer to whom it was issued, be evidence to the buyer that the wheat with respect to which the marketing card was issued is not subject to the lien for penalty and may be purchased by him without the payment of any penalty.

(b) *Wheat not marketed by the producer directly to and in the presence of the buyer.* Where the marketing of wheat by a producer is effected by telephone, telegraph, or mail, or by any means or method other than directly to and in the presence of the buyer, a marketing certificate (form Wheat 511-A), properly executed in accordance with § 728.242 by the county committee and the producer to whom it was issued, shall, when presented by the producer to the buyer, be evidence to the buyer that the wheat covered thereby is not subject to the lien for penalty and may be purchased by him without the payment of any penalty. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375 (a))

§ 728.247 *Identification by intermediate buyer's record and report.* The original and copy of an intermediate buyer's record and report (form Wheat 521), properly executed by the first intermediate buyer and the producer of the wheat, shall be evidence to any subsequent buyer that the wheat covered thereby is not subject to the lien for penalty and may be purchased by him without the payment of any penalty in the event (1) the form Wheat 521 shows the serial number of the marketing card by which the wheat was identified, or (2) the original of form Wheat 521 bears the endorsement "Penalty Satisfied" and the signature and title of a treasurer of a county committee and the date thereof. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375 (a))

§ 728.248 *Wheat not identified by a marketing card or certificate or an intermediate buyer's record and report.* All wheat marketed by a producer which is not identified by a marketing card (form Wheat 511) or marketing certificate

(form Wheat 511–A) as prescribed in the regulations in this part and all wheat marketed by an intermediate buyer which is not identified in the manner outlined in § 728.247 by form Wheat 521, properly executed by the first intermediate buyer and the producer of the wheat, shall be taken by the buyer thereof as wheat subject to penalty and the lien for penalty, and the buyer of such wheat shall pay the penalty thereon. (Sec. 375 (a), 52 Stat. 66, 7 U.S.C. 1375 (a))

PENALTIES

§ 728.249 *Rate of penalty.* The penalty shall be 49 cents per bushel. The rate of the penalty is 50 percent of the basic rate of the loan on wheat for cooperators for the marketing year under section 302 of the Act and paragraph 10 of the Resolution. The basic rate of the loan on wheat for cooperators is 98 cents per bushel. (Par. 2)

§ 728.250 *Lien for penalty.* The entire amount of wheat produced in 1941 on any farm for which a farm marketing excess is determined shall be subject to a lien in favor of the United States for the amount of the penalty until the producers on the farm store the farm marketing excess or deliver it to the Secretary of Agriculture or until the amount of the penalty is paid. (Par. 4)

§ 728.251 *Payment of penalties by producers*—(a) *Producers liable for payment of penalties.* Each producer having an interest in the wheat produced in 1941 on any farm for which a farm marketing excess is determined shall be liable to pay the amount of the penalty on the farm marketing excess. The amount of the penalty which any producer shall pay shall nevertheless be reduced by the amount of the penalty which is paid by another producer or a buyer of wheat produced on the farm.

(b) *Time when penalties become due.* The farm marketing excess for any farm shall be regarded as available for marketing and the penalty thereon shall become due at the time any wheat produced on the farm is threshed. The remittance of the amount of the penalty shall be made not later than sixty calendar days next succeeding the day on which the threshing of wheat produced on the farm is completed, or December 31, 1941, whichever is the earlier: *Provided, however,* That the penalty on that amount of the farm marketing excess delivered to the Secretary of Agriculture pursuant to § 728.257 shall not be remitted: *And provided further,* That the penalty on that amount of the farm marketing excess which is stored pursuant to § 728.256 shall not be remitted until the time, and to the extent, of any depletion in the amount of wheat so stored not authorized as provided in § 728.256 (d). (Sec. 375 (b), 52 Stat. 66, 7 U.S.C. 1375 (b), Par. 2, 3)

§ 728.252 *Payment of penalties by buyers*—(a) *Buyers liable for payment of penalties.* Each person within the United States who buys from the producer any wheat produced in 1941 on a farm for which the penalty on the farm marketing excess is not paid or for which the farm marketing excess is not stored or delivered to the Secretary of Agriculture shall pay the penalty on each bushel purchased by him which was produced on the farm. The penalty on the farm marketing excess shall be taken not to have been paid, and the amount of the farm marketing excess shall be taken not to have been stored or delivered to the Secretary of Agriculture unless, at the time of sale, the producer presents to the buyer a marketing card (form Wheat 511) or a marketing certificate (form Wheat 511–A) issued to the producer.

(b) *Payment of penalties on account of the lien for the penalty.* Each person within the United States who buys wheat which is subject to the lien for the penalty shall pay the amount of the penalty on each bushel thereof in satisfaction of the lien thereon. Wheat purchased from any producer or from any intermediate buyer shall be taken as subject to the lien for the penalty unless, at the time of sale, the producer presents to the purchaser a marketing card (form Wheat 511) or a marketing certificate (form Wheat 511–A) issued to the producer, or unless, at the time of sale, the intermediate buyer delivers to the purchaser the original and a copy of an intermediate buyer's record and report (form Wheat 521), properly executed by the producer of the wheat and the first intermediate buyer, which show (1) the serial number of the marketing card by which the wheat covered thereby was identified when marketed, or (2) on the reverse sides the statement "Penalty Satisfied" and the signature and title of a treasurer of a county committee and the date thereof.

(c) *Time when penalties become due.* The penalty to be paid by any buyer pursuant to paragraph (a) or (b) shall be due at the time the wheat is sold and shall be remitted not later than fifteen calendar days next succeeding the day on which the wheat was sold.

(d) *Manner of deducting penalties and issuance of receipts.* The buyer may deduct from the price paid for any wheat an amount equivalent to the amount of the penalty to be paid by the buyer pursuant to paragraph (a) or (b). Any buyer who deducts an amount equivalent to the penalty shall issue to the person from whom the wheat was purchased a receipt on form Wheat 512 or form Wheat 521, whichever is applicable, for the amount so deducted. (Sec. 375 (b), 52 Stat. 66, 7 U.S.C. 1375 (b); Par. 8)

§ 728.253 *Remittance of penalties to the treasurer of the county committee.* The treasurer of any county committee, for and on behalf of the Secretary of Agriculture, shall receive the penalty and issue to the person remitting the penalty a receipt therefor on form Wheat 517. The penalty shall be remitted only in legal tender, or by check, draft, or money order drawn payable to the order of the *Treasurer of the United States.* All checks, drafts, or money orders tendered in payment of the penalty shall be received by the treasurer of the county committee subject to collection and payment at par and the receipt on form Wheat 517 issued in connection therewith shall bear a notation to that effect and a description of the check, draft, or money order. If the penalty is remitted by an intermediate buyer, the treasurer of the county committee shall, in addition to issuing a receipt therefor on form Wheat 517, show that the penalty is paid by entering on the reverse side of the original and first copy of the intermediate buyer's record and report (form Wheat 521) the statement "Penalty Satisfied" and his signature and title and the date thereof. (Sec. 372 (b), 52 Stat. 65, 7 U.S.C. 1372)

§ 728.254 *Deposit of funds.* All funds received by the treasurer of the county committee in connection with penalties for wheat shall be scheduled and transmitted by him on the day received, or not later than the morning of the next succeeding business day, to the State committee, which shall cause such funds to be deposited to the credit of a special deposit account with the Treasurer of the United States in the name of the Chief Disbursing Officer of the Treasury Department (herein referred to as "special deposit account"). In the event the funds so received are in the form of cash, the treasurer of the county committee shall purchase a postal money order in the amount thereof, payable to the order of the Treasurer of the United States. The expense incurred by the treasurer of the county committee in purchasing postal money orders shall be paid by him in accordance with applicable procedure from the funds provided for the administrative expenses of the county agricultural conservation association. The treasurer of the county committee shall make and keep a record of each amount received by him, showing the name of the person who remitted the funds, the identification of the farm or farms in connection with which the funds were received, and the name of the person who marketed the wheat in connection with which the funds were remitted. As soon as practicable after the farm marketing quota and farm marketing excess for any farm have been finally determined, the county committee and the treasurer of the county committee shall review the amount of the funds received for the farm and notify the State committee of the amounts thereof which are penalties to be covered into the general fund of the Treasury of the United States and the amounts thereof in excess of the amount due as the penalty. The State committee shall cause to be scheduled for transfer from the special deposit account and covered into the general fund of the Treasury of the United States the amount of the penalties so determined. (Sec. 372 (b), 52 Stat. 65, 7 U.S.C. 1372 (b))

§ 728.255 *Refunds of money in excess of the penalty*—(a) *Conditions under*

which refunds may be made. The county committee and the treasurer of the county committee, upon their own motion or upon the request of any person who paid money as the penalty, shall review the amount of money paid to determine whether the amount so paid is in excess of that due as the penalty.

(b) *Persons eligible to receive refunds of money paid in excess of the penalty.* Any refund pursuant to this section shall be made only to the person who bore the burden of the payment of the penalty and who has not been reimbursed therefor. No refund shall be made to any buyer or transferee of any amount of money received from him as the penalty which he deducted from the price or consideration paid for the wheat or which the buyer was under a duty to pay.

(c) *Determination of amounts of refunds.* The total amount of any refunds under this section shall not exceed the amount by which the total amount received for the farm exceeds the total penalties incurred by the producers on the farm. If the county committee and the treasurer of the county committee find that the money received with respect to the farm is not in excess of the total amount of the penalties incurred, no refund under this section shall be made to any person. If the money received with respect to the farm is in excess of the total amount of the penalty incurred in connection therewith, the amount of the excess shall first be applied, insofar as the sum of the excess will permit, so as to make refunds to eligible persons other than the producers on the farm, and the remainder, if any, shall then be applied so as to make a refund to each eligible producer on the farm in the amount of that proportion of the remainder which the amount which he bore the burden of paying bears to the total amount which all producers on the farm bore the burden of paying.

(d) *Certification of refunds.* One member of the county committee, acting for the committee, and the treasurer of the county committee shall notify the State committee of the amount which the county committee and its treasurer determine may be refunded to each person with respect to the farm, and the State committee shall cause to be certified to the Chief Disbursing Officer of the Treasury Department for payment such amounts as are approved by it. No refund of money shall be certified under this section unless the money has been remitted to the treasurer of the county committee and transmitted by him to the State committee but has not been covered into the general fund of the Treasury of the United States. (Sec. 375 (b), 52 Stat. 65, 7 U.S.C. 1375 (b))

§ 728.256 *Storage of the farm marketing excess*—(a) *Amount of wheat to be stored.* The number of bushels of wheat in connection with any farm to be stored in order to postpone the payment of the penalty or with a view to avoiding such penalty shall be a number of bushels not less than that portion of the farm marketing excess on which the penalty has not been paid and which has not been delivered to the Secretary of Agriculture. The amount of the farm marketing excess at the time of storage shall be determined on the basis of normal production under § 728.233 or on the basis of actual production under § 728.235.

(b) *Deposit of warehouse receipts in escrow.* The storage of wheat in an elevator or warehouse in order to postpone the payment of the penalty or with a view to avoiding such penalty shall, except as provided in paragraph (c) of this section, be effective only when a warehouse receipt covering the amount of wheat to be stored is deposited with the treasurer of the county committee to be held in escrow. The warehouse receipt shall be a negotiable receipt or a nonnegotiable receipt as to which the warehouseman or elevator operator is notified in writing by the owner of such receipt and the treasurer of the county committee that it is being so deposited in escrow and that delivery of the wheat covered thereby is to be made only under the terms of its deposit in escrow while such receipt remains so deposited. Any warehouse receipt so deposited shall be accepted only upon the condition that the producers by or for whom the wheat is stored shall be and shall remain liable for all charges incident to the storage of the wheat and that the county committee and the United States shall in no way be responsible for or pay any such charges.

(c) *Bond of indemnity and funds in escrow.* The storage of wheat on the farm or elsewhere, other than by depositing a warehouse receipt in escrow, in order to postpone the payment of the penalty or with a view to avoiding such penalty shall be effective only when either (1) a good and sufficient bond of indemnity on form Wheat 523 is executed and filed with the treasurer of the county committee in an amount not less than the amount of the penalty on the farm marketing excess, or (2) an amount of money not less than the penalty on the farm marketing excess is deposited with the Treasurer of the United States to be held in escrow to secure the payment of such penalty. Each bond given pursuant to this paragraph shall be executed as principal by the owner or operator of the farm and as sureties by two persons, each owning real property (other than such owner or operator or producers) situated within the county with an unencumbered value of double the principal sum of the bond. Any funds delivered to be held in escrow to secure the payment of the penalty shall be only in legal tender or in the form of a certified check, cashier's check, or money order drawn payable to the order of the Treasurer of the United States and shall be deposited as provided for in § 728.254. The treasurer of the county committee shall issue a receipt for such funds on form Wheat 517 to the person who tenders such funds which shall be received subject to collection and payment at par. The wheat so stored shall be kept in a place adapted to the storage of wheat and from the dimensions of which the amount of wheat stored therein may be ascertained. The storage of wheat under this paragraph shall be subject to the condition that the wheat so stored may be inspected at any time by officers and employees of the United States Department of Agriculture and members, officers, and employees of the State and county committees. Each bond of indemnity and deposit of funds in escrow shall be subject to the conditions that the penalty on the amount of wheat stored shall be paid at the time, and to the extent, of any depletion of the amount stored which is not authorized under paragraph (d) and that if at any time the producers on the farm prevent the inspection of any wheat so stored the penalty on the entire amount stored shall be paid forthwith.

(d) *Depletion of the amount stored.* The penalty on the amount of wheat stored, whether under paragraph (b) or (c), shall be paid by the producers on the farm at the time, and to the extent, of any unauthorized depletion in the amount of wheat stored. The depletion of the amount of wheat stored is authorized in the following amounts and under the following conditions, and no penalty shall be due on the amount of depletion: (1) The amount stored may be reduced to the amount of the farm marketing excess for the farm as adjusted in accordance with § 728.235 or § 728.271; (2) the amount stored may be reduced to the amount of the farm marketing excess as determined by a review committee appointed by the Secretary of Agriculture to review farm marketing quotas for wheat or to the amount of the farm marketing excess determined as a result of a court review of the determination of the review committee; or (3) the amount stored may be reduced by fire, weather conditions, insect infestation, or any other cause beyond the control of the producer, provided the producer shows beyond a reasonable doubt that the depletion resulted from such cause and not from his negligence nor from any affirmative act done, or caused to be done, by him. The depletion of the amount of wheat stored in connection with any farm is likewise authorized if a farm marketing quota for the 1941 crop is not applicable to the farm or if the wheat produced thereon in 1941 is not subject to the penalty. (Par. 3, 5)

§ 728.257 *Delivery of the farm marketing excess to the Secretary of Agriculture*—(a) *Amount of wheat to be delivered.* The amount of wheat in connection with any farm to be delivered to the Secretary of Agriculture in order to avoid the payment of the penalty shall be equal to the amount of the farm marketing excess as determined, at the time of delivery, on the basis of normal production, in accordance with § 728.233, or on the basis of actual production, in accordance with § 728.235, less the amount of the farm marketing

excess on which the penalty has been paid and less the amount thereof which has been stored in accordance with § 728.256.

(b) *Conditions and methods of delivery.* For and on behalf of the Secretary of Agriculture, the treasurer of the county committee for the county in which the farm for which the farm marketing excess is determined is situated shall accept the delivery of any wheat tendered to avoid the payment of the penalty. The delivery of the wheat for this purpose shall be effective only when the producers having an interest in the wheat to be so delivered convey to the Secretary of Agriculture all right, title, and interest in and to the wheat by executing form Wheat 522 and deliver the wheat to a wheat elevator or warehouse and tender to the treasurer of the county committee the elevator or warehouse receipts for the amount of the wheat. None of the wheat so delivered shall be returned to the producer. (Par. 3)

§ 728.258 *Refund of penalty erroneously, illegally, or wrongfully collected.* Whenever, pursuant to a claim filed with the Secretary of Agriculture within the time prescribed by law after payment to him of the penalty collected from any person, the Secretary of Agriculture finds that the penalty was erroneously, illegally, or wrongfully collected, he shall certify to the Secretary of the Treasury of the United States for payment to the claimant, in accordance with regulations prescribed by the Secretary of the Treasury of the United States such amount as the claimant is entitled to receive as a refund of all or a portion of the penalty. Any claim filed pursuant to this section shall be made in accordance with regulations prescribed by the Secretary of Agriculture. (Sec. 372 (c), 52 Stat. 65, 204, 54 Stat. 728, 7 U.S.C. 1372 (c))

§ 728.259 *Report of violations and court proceedings to collect penalty.* It shall be the duty of the county committee to report in writing to the State Committee each case of failure or refusal to pay the penalty or to remit the same to the Secretary of Agriculture when collected. It shall be the duty of the State Committee to report each such case in writing in quadruplicate to the United States Department of Agriculture with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to collect the penalties, as provided in section 376 of the Act. (Sec. 376, 52 Stat. 66, 7 U.S.C. 1376)

RECORDS AND REPORTS

§ 728.260 *Records to be kept and reports to be made by warehousemen, elevator operators, feeders, and other processors*—(a) *Necessity for records and reports.* Each warehouseman, elevator operator, feeder, or other processor who buys, acquires, or receives wheat from the producer or intermediate buyer thereof shall, in conformity with section 373 (a) of the Act, keep the records and make the reports prescribed by this section, which the Secretary of Agriculture hereby finds to be necessary to enable him to carry out with respect to wheat the provisions of Title III of the Act and of the Resolution.

(b) *Nature of and availability of records.* Each warehouseman, elevator operator, feeder, or other processor shall keep, as a part of or in addition to the records maintained by him in the conduct of his business, a record which shall show with respect to the wheat purchased, acquired, or received by him from the producers or the intermediate buyers thereof the following information: (1) the name and address of the producer of the wheat, (2) the date of the transaction, (3) the amount of wheat, (4) the serial number of the marketing card (form Wheat 511), or marketing certificate (form Wheat 511–A), or intermediate buyer's record and report (form Wheat 521) by which the wheat was identified, or the report and penalty receipt (form Wheat 512), and (5) the amount of any penalty in connection with the wheat purchased, acquired, or received by him. The record so made shall be kept available for examination by the Secretary of Agriculture or his authorized representatives, and by members of the State and county committees and their officers and employees, for two calendar years beyond the calendar year in which the marketing year ends, for the purpose of ascertaining the correctness of any report made or record kept pursuant to the regulations in this part, or of obtaining the information required to be furnished in any report pursuant to the regulations in this part but not so furnished. The county committee shall furnish, without cost, blank copies of forms Wheat 520 which may be used for the purpose of keeping the record required under this paragraph.

(c) *Records and reports in connection with wheat not identified by a marketing card or certificate or intermediate buyer's record and report.* Each warehouseman, elevator operator, feeder, or other processor who purchases any wheat from the producer thereof which is not identified when marketed by a marketing card (form Wheat 511) or marketing certificate (form Wheat 511–A) issued to the producer, or purchases or acquires any wheat from an intermediate buyer which is not identified when marketed by the original and a copy of an intermediate buyer's record and report (form Wheat 521), properly executed by the producer of the wheat and the first intermediate buyer, shall, with respect to each such transaction, make a record on form Wheat 512 and report thereon to the treasurer of the county committee the following information: (1) the name and address of the producer or intermediate buyer from whom the wheat was purchased or acquired, (2) the date of the transaction, (3) the amount of wheat, and (4) the amount of the penalty incurred in connection with the transaction, and whether an amount equivalent to the penalty was deducted from the price or consideration paid for the wheat. Each record and report on form Wheat 512 shall be executed in triplicate. The warehouseman, elevator operator, feeder, or other processor by whom it is executed shall retain one copy, give the original to the producer or intermediate buyer, as the case may be, and mail or deliver the remaining copy to the treasurer of the county committee. The original of form Wheat 512 given to the producer or intermediate buyer, as the case may be, shall be the receipt to him for the amount of the penalty in connection with the wheat. It shall be presumed that wheat was not identified by forms Wheat 511, 511–A, or 521 if the serial number of the marketing card or marketing certificate or intermediate buyer's record and report does not appear on the records required to be kept pursuant to paragraph (b).

(d) *Records and reports in connection with wheat identified by intermediate buyer's records and reports.* Each warehouseman, elevator operator, feeder, or other processor who purchases or acquires any wheat identified by an intermediate buyer's record and report (form Wheat 521) shall make a report in connection with the transaction by forwarding to the treasurer of the county committee the original of form Wheat 521 executed by the producer of the wheat and the first intermediate buyer. The copy of form Wheat 521 shall be retained by the warehouseman, elevator operator, feeder, or other processor as a record in connection with the transaction.

(e) *Records in connection with wheat identified by marketing certificate.* Each warehouseman, elevator operator, feeder, or other processor who purchases or acquires wheat by telephone, telegraph, or mail, or by any means or method other than directly from and in the presence of a producer, shall secure the original of the marketing certificate (form Wheat 511-A) from the producer, and retain it as a record of the transaction. (Sec. 373 (a), 52 Stat. 65, 54 Stat. 394, 7 U.S.C. 1373 (a))

§ 728.261 *Records to be kept and reports to be made by intermediate buyers*—(a) *Necessity for records and reports.* Each intermediate buyer shall, on conformity with section 373 (a) of the Act, keep the records and make the reports prescribed by this section, which the Secretary of Agriculture hereby finds to be necessary to enable him to carry out with respect to wheat the provisions of Title III of the Act and of the Resolution.

(b) *Form of record and report in connection with wheat marketed by producers.* Each intermediate buyer who purchases or acquires any wheat from the producer thereof shall, with respect to each such transaction, keep a record and make a report on form Wheat 521 of the following information: (1) the

name and address of the producer from whom the wheat was purchased or acquired, (2) the date of the transaction, (3) the names of the county and State in which the wheat was produced, (4) the amount of wheat, and (5) the serial number of the marketing card by which the producer identified the wheat at the time it was marketed, or the amount of the penalty, and whether an amount equivalent to the penalty was collected or deducted from the price or consideration paid for the wheat. The record and report shall be executed in quadruplicate and, after the entries described above are made, the intermediate buyer and producer shall certify to the correctness of the entries by signing the certificate thereon. One copy of form Wheat 521 so executed shall be retained by the producer as his receipt for the amount equivalent to the penalty, if any, which was deducted from the price or consideration paid for the wheat. One copy of form Wheat 521 so executed shall be retained by the intermediate buyer as his record in connection with the transaction.

(c) *Manner of making reports.* The original and a copy of the report (form Wheat 521) shall be delivered to the warehouseman, elevator operator, feeder, or other processor to whom the wheat covered thereby is marketed. In the event the wheat covered by the report is marketed to another intermediate buyer, the original and a copy of the report (form Wheat 521) shall accompany each transaction between one intermediate buyer and another intermediate buyer, and the last intermediate buyer shall deliver them to the warehousemen, elevator operator, feeder, or other processor. The intermediate buyer shall mail or deliver the original of the report to the treasurer of the county committee where the wheat is not marketed or delivered to a warehouseman, elevator operator, feeder, or other processor. (Sec. 373 (a), 52 Stat. 65, 54 Stat. 394, 7 U.S.C. 1373 (a))

§ 728.262 *Time and place of submitting reports.* Each report required by §§ 728.260 or 728.261 shall be submitted, not later than 15 calendar days next succeeding the day on which the wheat was marketed to a warehouseman, elevator operator, feeder, or other processor, to the treasurer of the county committee for the county in which the wheat was so marketed or, if there is no such county committee, to the State Committee for the State in which the wheat was so marketed. (Sec. 373 (a), 52 Stat. 65, 54 Stat. 394, 7 U.S.C. 1373 (a))

§ 728.263 *Buyer's special reports.* In the event that the county committee or State committee has reason to believe that any buyer has failed or refused to comply with these regulations, the buyer shall within 15 days after a written request therefor by the county committee is deposited in the United States mails, registered and addressed to him at his last-known address, make a report on form Wheat 520 to such committee of all wheat purchased or acquired by him from the producer thereof up to and including the day such report is made. Such report shall include the following information for each lot of wheat so purchased or acquired by such buyer: (1) the name and address of the producer of the wheat, (2) the date of the transaction, (3) the amount of wheat, (4) the serial number of the marketing card (form Wheat 511), marketing certificate (form Wheat 511–A), or intermediate buyer's record and report (from Wheat 521), or the report and penalty receipt (form Wheat 512), and (5) the amount of penalty in connection with the wheat purchased or acquired. (Sec. 373 (a), 52 Stat. 65, 54 Stat. 394, 7 U.S.C. 1373 (a))

§ 728.264 *Penalty for failure or refusal to keep records and make reports.* Any person required to keep the records or make the reports specified in §§ 728.260, 728.261, or 728.263 and who fails to keep any such record or make any such report or who makes any false report or keeps any false record shall, as provided in section 373 (a) of the Act, be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than $500 for each such offense. (Sec. 373 (a), 52 Stat. 65, 54 Stat. 394, 7 U.S.C. 1373 (a))

§ 728.265 *Records to be kept and reports to be made by producers.* Each person who in 1941 harvests wheat which is subject to the provisions of these regulations shall, in conformity with section 373 (b) of the Act, keep the records and make the reports prescribed by this section, which the Secretary of Agriculture hereby finds to be necessary to enable him to carry out, with respect to wheat, the provisions of Title III of the Act and of the Resolution. The operator of each farm in connection with which a farm marketing excess is determined and for which a marketing card is not issued under §§ 728.240, 728.271, or 728.272 shall file with the treasurer of the county committee for the county in which the farm is located a report on form Wheat 519 showing for the farm the following information: (1) the total number of bushels of wheat produced thereon in 1941, (2) the name and address of each buyer or transferee of any wheat, (3) the amount of wheat marketed to him, (4) the amount equivalent to the penalty which was deducted from the price or consideration received for the wheat, and (5) the amount of unmarketed wheat of the 1941 crop on hand. The report in connection with any such farm shall be made not later than 15 days after all wheat in connection with the farm is marketed or not later than December 31, 1941, whichever is the earlier. Upon the request of the county committee, the operator of any other farm shall make a similar report within 15 days after the request therefor is made. (Sec. 373 (b), 52 Stat. 65, 7 U.S.C. 1373(b))

§ 728.266 *Data to be kept confidential.* Except as otherwise provided herein, all data reported to or acquired by the Secretary of Agriculture pursuant to and in the manner provided in the regulations in this part shall be kept confidential by all officers and employees of the United States Department of Agriculture, members of county committees, other local committees, and State committees, county agents, and officers and the employees of such committees and county agents' offices, and shall not be disclosed to anyone not having an interest in or responsibility for any wheat, farm, or transaction covered by the particular data, such as records, reports, forms, or other information, and only such data so reported or acquired as the Secretary of Agriculture deems relevant shall be disclosed by them to anyone not having such an interest or not being employed in the administration of the Act and Resolution and then only in a suit or administrative hearing under Title III of the Act and the Resolution. (Sec. 373 (c), 52 Stat. 65, 7 U.S.C. 1373 (c))

§ 728.267 *Enforcement.* It shall be the duty of the county committee to report in writing to the State committee forthwith each case of failure or refusal to make any report or keep any record as required by these regulations and each case of making any false report or record. It shall be the duty of the State committee to report each such case in writing, in quadruplicate, to the United States Department of Agriculture with a view to the institution of proceedings by the United States Attorney for the appropriate district, under the direction of the Attorney General of the United States, to enforce the provisions of Title III of the Act and of the Resolution. (Sec. 376, 52 Stat. 66, 7 U.S.C. 1376)

SPECIAL PROVISIONS AND EXEMPTIONS

§ 728.268 *Farms on which the acreage planted is not in excess of fifteen acres*—(a) *Conditions of exemption.* A farm marketing quota for wheat for the 1941 crop shall not be applicable to any farm on which the acreage of wheat seeded for the 1941 crop is not in excess of fifteen acres. The penalty shall likewise not be applicable to any wheat of the 1941 or any previous crop produced on or marketed from such farm.

(b) *Issuing marketing cards.* The county committee shall, for each farm to which a farm marketing quota is not applicable under the conditions of paragraph (a), issue a marketing card to the operator, and, unless the county committee determines that it will not serve a useful purpose, to other producers on the farm, in the manner provided in § 728.240.

§ 728.269 *Farms on which the normal production of the acreage planted is less than two hundred bushels*—(a) *Conditions of exemption.* A farm marketing quota for wheat for the 1941 crop shall not be applicable to any farm on which the normal production of the acreage planted to wheat of the 1941 crop is less than two hundred bushels. The penalty shall likewise not be applicable to any wheat of the 1941 or any previous crop

produced on or marketed from such farm.

(b) *Issuing marketing cards.* The county committee shall, for each farm to which a farm marketing quota is not applicable under the conditions of paragraph (a), issue a marketing card to the operator, and, unless the county committee determines that it will not serve a useful purpose, to other producers on the farm, in the manner provided in § 728.240. (Sec. 335 (d), 375 (a), 52 Stat. 55, 66, 54 Stat. 232, 7 U.S.C. 1335 (d), 1375 (a))

§ 728.270 *Experimental wheat farms*—(a) *Conditions of exemption.* The penalty shall not apply to the marketing of any wheat of the 1941 crop grown for experimental purposes only by any publicly owned agricultural experiment station.

(b) *Issuing marketing cards.* The county committee shall, upon the written application of a responsible executive officer of any publicly owned agricultural experiment station to which the exemption referred to in paragraph (a) is applicable, issue a marketing card for the experiment station in the manner provided in § 728.240. (Sec. 372 (d), 375 (a), 52 Stat. 65, 66, 204, 7 U.S.C. 1372 (d), 1375 (a))

§ 728.271 *Non-allotment farms*—(a) *Amount of farm marketing excess.* The farm marketing excess for any non-allotment farm to which a farm marketing quota is applicable shall be determined in the manner outlined in §§ 728.233 and 728.235 prior to the time the acreage of wheat harvested thereon in 1941 is ascertained as provided for in § 728.229. When the acreage of wheat harvested on any non-allotment farm to which a farm marketing quota is applicable is ascertained, the farm marketing excess for the farm shall be the normal production of the excess wheat acreage. The excess wheat acreage for the farm shall be that acreage of wheat harvested on the farm which is in excess of 15 acres or the farm acreage allotment for the farm, whichever is the larger. The farm marketing excess so determined shall be final unless an application for an adjustment in the amount of the farm marketing excess is made by the operator or any other producer having an interest in the wheat produced in 1941 on the farm. When it is determined by the Secretary of Agriculture, through the county committee, pursuant to the application for an adjustment, that the actual production of the excess wheat acreage for the farm is less than the normal production thereof, the amount of the farm marketing excess shall be the actual production of the excess wheat acreage for the farm. The procedure in connection with an application for an adjustment in the farm marketing excess for a non-allotment farm shall be governed by the provisions of § 728.235 (b).

(b) *Notice of farm marketing quota and farm marketing excess.* The notice of the farm marketing quota and farm marketing excess for any non-allotment farm shall be given in accordance with § 728.234. In the event the notice for any non-allotment farm is given for a farm marketing excess determined under § 728.233 and the amount of the farm marketing excess is revised on the basis of the harvested acreage as provided in paragraph (a) of this section, the county commitee shall mail to the operator of the farm a new notice on form Wheat 513 of the revised amount of the farm marketing excess. The new notice so given shall supersede the former notice and the right of the producer to a review of the farm marketing quota and farm marketing excess as revised shall not be affected by the giving of the former notice. The new notice shall contain at or near the top thereof the following statement: "This notice supersedes any notice previously given."

(c) *Issuing marketing cards.* The county committee shall, for each non-allotment farm to which the provisions of this section are applicable, issue marketing cards and marketing certificates to the producers on the farm in the manner, and subject to the conditions, specified in §§ 728.240 to 728.244, inclusive. (Sec. 362, 375 (a), 52 Stat. 62, 66, Par. 7, 7 U.S.C. 1362, 1375 (a))

§ 728.272 *Non-allotment farms on which the acreage of wheat harvested does not exceed the usual acreage*—(a) *Conditions of exemption.* The penalty shall not apply to wheat produced in 1941 on any non-allotment farm to which a farm marketing quota is applicable and on which the acreage of wheat harvested in 1941 is in excess of 15 acres or the farm acreage allotment therefor, whichever is the larger, provided the acreage of wheat harvested thereon in 1941 is not in excess of the usual acreage determined for the farm under the 1941 Agricultural Conservation Program, and, provided further, the county committee determines that an amount of wheat equal to the farm marketing excess for the farm will be used for farm consumption and will not be marketed. The farm marketing excess for the farm shall be determined in accordance with § 728.271 (a). Wheat used for farm consumption for the purposes of this section shall be wheat consumed (1) by the producer's family, employees, or household, or by his work stock, or by livestock or poultry on his farm if such livestock or poultry, or the products thereof, are consumed or are to be consumed by the producer's family, employees, or household; (2) as seed by the producers on the farm in planting wheat; or (3) as a premium to the Federal Crop Insurance Corporation. The county committee, in determining whether the amount of the farm marketing excess will be used for farm consumption, shall take into consideration the purposes for which the wheat was grown and the number of bushels of wheat which, in view of the practices customarily followed by the producer, would normally be required for farm consumption.

(b) *Issuing marketing cards.* The county committee shall, for each non-allotment farm to which the exemption referred to in paragraph (a) is applicable, issue a marketing card to the operator and, unless the county committee determines that it will not serve a useful purpose, to other producers on the farm in the manner provided in § 728.240. (Sec. 375 (a), Par. 7, 52 Stat. 66, 7 U.S.C. 1375 (a)).

§ 728.273 *Non-allotment farms on which the acreage of wheat harvested does not exceed three acres per family*—(a) *Conditions of exemption.* The penalty shall not apply to wheat produced in 1941 on any non-allotment farm to which a farm marketing quota is applicable and on which the acreage of wheat harvested in 1941 is in excess of 15 acres or the farm acreage allotment therefor, whichever is the larger, and to which the provisions of § 728.272 are not applicable, provided the acreage of wheat harvested thereon in 1941 is not in excess of 3 acres for each farm family living on the farm and, provided further, no wheat produced in 1941 on the farm is marketed by sale. The provisions of this section shall be applicable only to non-allotment farms situated in the East Central Region and all States in the Southern Region except the States of Texas and Oklahoma and the following counties in Arkansas: Baxter, Benton, Boone, Carroll, Independence, Madison, Marion, Randolph (Area II), Sharp, Stone, and Washington.

(b) *Marketing cards.* A marketing card shall not be issued to any producer on any farm to which the exemption referred to in paragraph (a) is applicable. (Sec. 375 (a), Par. 7, 52 Stat. 66, 7 U.S.C. 1375 (a)).

Done at Washington, D. C., this 31st day of May 1941. Witness by hand and seal of the Department of Agriculture.

[SEAL] PAUL H. APPLEBY,
Acting Secretary of Agriculture.

[F. R. Doc. 41-3970; Filed, June 3, 1941; 11:26 a. m.]

TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER I—AID TO CIVIL AUTHORITIES AND PUBLIC RELATIONS

PART 11—ASSISTANCE TO RELATIVES AND OTHERS IN CONNECTION WITH DECEASED PERSONNEL [1]

§ 11.1 *Notification of death to nearest relative or other person designated to be notified in case of emergency.* (a) In cases of deaths occurring within the continental limits of the United States, including those occurring in Alaska, the immediate commander will

[1] §§ 11.1 to 11.6 are added.

send notification of death by commercial telegraph (via Alaska Communication System, if in Alaska) to the nearest relative or other person designated to be notified in case of emergency. Such notification will include the fact, date, place, and cause of death, amount authorized by regulations for funeral expenses, after arrival of remains at place designated, and will, when early shipment of the remains is practicable, request the person notified to reply by telegraph whether it is desired to have the remains shipped home, and if such shipment is desired, to designate the destination and the name of the person to whom the remains are to be consigned. For shipment of remains, see § 93.5. In the cases of deaths within the continental limits of the United States, including those occurring in Alaska, the officer making the report to The Adjutant General will also notify by commercial telegraph the nearest relative or other person designated to be notified in case of emergency. Under no circumstances will the notification include a statement relative to line of duty or misconduct.

(b) In cases of deaths occurring outside the continental limits of the United States, excluding those occurring in Alaska, upon receipt of the report of death, The Adjutant General will, except as provided in (c) below, notify the nearest relative, or other person designated to be notified in case of emergency, of the fact of death, and in all cases of civilian employees will report the facts to the Secretary of War.

(c) When the person to be notified resides in the country in which the death occurs the notification of the fact of death to such person will be made by the immediate commander of the post, camp, station, or other command at which death occurs.

(d) In view of the importance and urgency of telegraphic reports of death, a definite address, including street number when known, will be given in all cases in order that prompt and correct delivery may be made.*† [Par. 7]

*Except as otherwise noted, §§ 11.1 to 11.6 issued under authority contained in R. S. 161; 5 U.S.C. 22.

†These regulations also appear in AR 600-550, Mar. 6, 1936, as amended by C-1, May 20, 1937, and Cir. 48, W.D., May 8, 1940. The particular paragraphs of the Army regulations appear in brackets at the end of the section.

§ 11.2 *Letter of sympathy to nearest relative or other person designated to be notified in case of emergency.* (a) Upon receipt of notification of death from the surgeon of any person subject to military law, a letter of sympathy will be prepared by the immediate commanding officer and mailed to the nearest relative or other person designated to be notified in case of emergency. The letter of sympathy will include a statement of the date, place, and cause of death, and if addressed to the widow or legal representative of the deceased or other person designated in the one hundred and twelfth article of war, will contain information relative to the following:

(1) Shipment of effects.

(2) The names, official designations, and post-office addresses of the officers and officials to whom applications should be made for—

(i) The effects.
(ii) Settlement of accounts.
(iii) Pensions.

(b) When at time of death the person is absent or detached from his organization or station, or is en route to join his station, the letter of sympathy will be prepared by the officer making the report to The Adjutant General.

(c) When death occurs on a transport, the letter of sympathy will be prepared by the commanding officer of the transport or of the detachment and will be turned over to the transport quartermaster to be mailed to the nearest relative or other person designated to be notified in case of emergency, at the first available date which will insure prompt delivery.*† [Par. 8]

§ 11.3 *Advice to a supposed beneficiary; furnishing vouchers.* (a) Inquiries from a supposed beneficiary will be answered to the effect that gratuities (§§ 33.1 to 33.6) are paid by the proper disbursing officer as soon as eligibility therefor can be determined by the Finance Officer, U. S. Army, or department finance officer; that if found eligible, information relative to payment may be expected from the disbursing officer as early as practicable; and that no action on his or her part to secure payment is either necessary or desirable.

(b) Vouchers will not be furnished to a supposed beneficiary by anyone other than the disbursing officer designated to pay the gratuity, except that in order to facilitate payment a voucher may be furnished by the local disbursing officer to the widow or, if there be no widow, to the child or children of the deceased person.*† [Par. 9]

§ 11.4 *Effects*—(a) *Procedure when the widow or legal representative is present at time of death.* (1) Upon the death of any person subject to military law as defined in the second article of war, his immediate commanding officer will immediately secure his effects, deliver them to the widow or legal representative, prepare W.D., A.G.O. Form No. 54 in triplicate and forward the original and first carbon copy thereof with the report of the summary court's transaction to the commanding officer to whom W.D., A.G.O. Form No. 52 is submitted for transmission with the report to The Adjutant General.

(2) In such cases the articles will be described in general terms instead of being itemized on the inventory of effects, and the certificates of the officer thereon will show the full name and address of the widow or legal representative to whom the effects were delivered.

(b) *Procedure when the widow or legal representative is not present at time of death.* (1) When the widow or legal representative is not present at time of death, the effects of any person subject to military law will be listed by the immediate commanding officer, and the effects accompanied with the list thereof will be immediately delivered to the summary court designated by the commanding officer to secure such effects. A receipt for the effects will be obtained by the immediate commanding officer from the summary court, which will dispose of the effects in the manner provided in the one hundred and twelfth article of war, prepare the inventory in duplicate, and forward both copies with the final report of the summary court transactions directly to The Adjutant General. See sec. 972, Dig. Ops. J. A. G., 1912-30.

(2) In all cases of military personnel who die outside the continental limits of the United States (excluding Puerto Rico and the Hawaiian Department), the report of the summary court required by (1) above will show the name and address of the person to whom the effects are consigned and, if the consignee is a resident of the United States, the designation of the port quartermaster in whose care they are shipped.*† [Pars. 28 and 29]

§ 11.5 *Effects of deceased civilian employees not subject to military law.* The foregoing provisions in § 11.4 do not apply in the case of deceased civilian employees with the Army when they are not subject to military law. In such cases the officer under whom the decedent was serving, or such representative of the service in which the decedent has been employed as said officer may designate, will secure the decedent's effects and deliver them to the legal heirs or their representatives. Should the effects be not claimed within a reasonable period of time, said officer, or the person designated by him, will deliver the effects, with all available useful information concerning the decedent, to the person designated by the judicial officer of the local civil government having jurisdiction over the estates of deceased persons. In all cases receipts will be obtained and forwarded through chiefs of arms and services to the Secretary of War with complete report of action taken.*† [Par. 33]

§ 11.6 *Stocks, bonds, and other commercial paper not to be converted into cash.* (a) The disposal of the effects and cash belonging to the estates of persons dying while subject to military law will be governed by the procedure set forth in the one hundred and twelfth article of war.

(b) When delivery of the effects cannot be made to any of the persons named in that article of war and the effects are to be converted into cash, the summary court will not include in the sale of effects any stocks, bonds, or other forms or purely commercial paper, but will forward the same to the War Department for transmission to the Soldier's Home under the provisions of the

act of Congress approved February 21, 1931 (46 Stat. 1203; 10 U.S.C. 1584a).*† [Par. 34]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 41-3961; Filed, June 3, 1941; 9:57 a. m.]

CHAPTER VII—PERSONNEL

PART 78—DECORATIONS, MEDALS, RIBBONS AND SIMILAR DEVICES [1]

§ 78.26 *Service medals, general*—(a) *To whom awarded; purpose.* Service medals are awarded, for certain services, to individuals who render military service in war, in campaign, or in the Army within certain periods of time.

(b) *One medal or clasp only to an individual.* Except as prescribed in § 78.29, one service medal or clasp only, of a particular kind, will be furnished by reason of the service rendered by any one individual.

(c) *Distinctive part of uniform.* Service medals, with their pertinent ribbons, clasps, and stars, are a distinctive part of the uniform of the United States Army when worn as prescribed or authorized in AR 600-40.[2]

(d) *Names, dates of authorization.* The following are the names and the respective dates of authorization of the service medals and clasps of the Army of the United States:

Name	*Date of authorization*
Civil War campaign medal	Jan. 11, 1905
Indian campaign medal	Do.
Spanish campaign medal	Do.
Spanish War service medal	July 9, 1918
Army of Cuban occupation medal	June 28, 1915
Army of Porto Rican occupation medal	Do.
Philippine campaign medal	Jan. 11, 1905
Philippines congressional medal	June 29, 1906
China campaign medal	Jan. 11, 1905
Army of Cuban pacification medal	May 11, 1909
Mexican service medal	Dec. 12, 1917
Mexican border service medal	July 9, 1918
Victory medal	Apr. 9, 1919
(1) Battle clasps:	
(i) Major operations:	
Cambrai.	
Somme, defensive.	
Lys.	
Aisne.	
Montdidier-Noyon.	
Champagne-Marne.	
Aisne-Marne.	
Somme, offensive.	
Oise-Aisne.	
Ypres-Lys.	
St. Mihiel.	
Meuse-Argonne.	
Vittorio-Veneto.	
(ii) *Defensive sector.* The defensive sector clasp will be awarded for service, irrespective of awards for major operations, one only being awarded, notwithstanding that service may have been rendered in more than one sector.	
Victory medal—Continued.	Apr. 9, 1919
(2) Service clasps:	
(i) France.	
(ii) Italy.	
(iii) Siberia.	
(iv) Russia.	
(v) England.	

(e) *Character of service required.* (1) Service medals and clasps may be earned by honorable service only. Service in an enlistment which was terminated otherwise than honorably is not considered honorable service, within the meaning of the term as here used.

(2) Except as prescribed in (3) and (4) below, service medals and clasps earned by honorable service will be awarded in the cases of persons who have subsequently to such service rendered service other than honorable, provided they have subsequently to that last nonhonorable service been in an honorable status in the Army.

(3) The Philippines congressional medal will be awarded in the cases of all who rendered the prescribed service, and who were honorably discharged from the enlistment including such service, or who died prior to such discharge, regardless of any subsequent dishonorable service. See act June 29, 1906 (34 Stat. 621).

(4) The Spanish War service medal and the Mexican border service medal will not be awarded to persons who have at any time subsequent to rendition by them of the service which would have entitled them thereto, been dishonorably discharged from the Army or have deserted. Act July 9, 1918 (40 Stat. 873); act June 5, 1920 (41 Stat. 973). (34 Stat. 621; 40 Stat. 873; 41 Stat. 973; 10 U.S.C. 1413, 1413a, 1414) [Pars. 1 and 2, AR 600-65, Nov. 20, 1928]

§ 78.27 *Application for other than a Victory medal.* Any person who is in the Army, or whose service in the Army has terminated, or the next of kin of such person, who is entitled to a service medal of the Army of the United States, other than a Victory medal, will make application therefor on W.D., A.G.O. Form No. 01714 (Application for Medal), a separate blank being used by each applicant for each medal. Company and other commanders, chiefs of branches, and others concerned will see that such applications are promptly and properly made by those under their immediate command or control. Each application from a next of kin will be accompanied by a statement setting forth—

(1) The degree of the applicant's relationship to the deceased.

(2) The names, ages, addresses, etc., of the nearest relatives of the deceased.

(3) That he or she is the next of kin according to the line of descent prescribed in § 78.28 (b) (2).

All applications for service medals, other than the Victory medal, will be forwarded to The Adjutant General, those from persons in the service being forwarded directly by company and other commanders, chiefs of branches, etc., and those from persons not in the service, including next of kin, being forwarded directly by them. (34 Stat. 621; 40 Stat. 873; 10 U.S.C. 1413, 1413a) [Par. 7, AR 600-65, Nov. 20, 1928]

§ 76.28 *Original supply.* (a) Under the provisions of the act of May 12, 1928, original issues of "service medals, together with such ribbons, clasps, stars, and similar devices as may be prescribed as a part thereof," will be made gratuitously. Issues will be made to next of kin under the same conditions as would apply to the deceased person, were that person living.

(b) *To whom furnished.* Service medals and clasps are furnished only—

(1) To those who, in one or more of the prescribed capacities, shall have rendered the requisite service, or

(2) To the next of kin of those deceased who, in one or more of the prescribed capacities, shall have rendered the requisite service.

By next of kin is meant the first of the following who is living:

Widow (if not remarried), eldest son, eldest daughter, father, mother, eldest brother, eldest sister, eldest grandchild.

(c) *Death before delivery.* In case an individual dies before delivery has been made to him of a medal or clasp for which he has been certified, the medal will be sent to The Adjutant General for cancelation of the certification and return of the medal to the issuing officer, or for delivery to the next of kin, as may be deemed proper. (34 Stat. 621; 40 Stat. 873; 10 U.S.C. 1413, 1413a) [Pars. 11, 12, 13, AR 600-65, Nov. 20, 1928]

§ 78.29 *Duplicates*—(a) *When furnished—General.* Under authority of the act of May 12, 1928, a duplicate of a service medal or clasp will be furnished in case the original has been lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom originally presented.

(1) *By gratuitous issue.* To persons in the military service.

(2) *By sale.* To all others. (For prices see AR 30-3000.[3])

(b) *Engraving.* (1) Engraving of a duplicate medal issued under the provisions of (a) (1) above will be done without cost to the recipient.

(2) Engraving of a duplicate medal sold under the provisions of (a) (2) above will be done at actual cost.

(c) *How obtained*—(1) *Application for; when made; to whom addressed.* (i) In the cases of persons in the military service, and in other cases when the loss is the result of fire, tornado, earthquake, shipwreck, or similar catastrophe, application may be made immediately; otherwise, the application should not be made until after the lapse of three months.

(ii) Applications should be addressed to The Adjutant General.

(2) *Form of application.* (i) If from a person in the military service, including active members of the National Guard

[1] §§ 78.26 to 78.30 are added.

[2] Administrative regulations of the War Department relating to wearing of the uniform.

[3] Administrative regulations of the War Department containing price list of clothing and equipage.

and members of the Officers' Reserve Corps and the Enlisted Reserve Corps, the application will be in the form of a letter.

(ii) If from a person not in the service, it will be on a blank form furnished by The Adjutant General.

(3) *Matter to accompany application.* In any case the application will be supported by proof in the form of an affidavit setting forth the circumstances attending the loss or destruction, showing that such loss or destruction was without fault or neglect on the part of the applicant and what efforts, if any, were made toward recovery.

(4) *How application forwarded.* (i) If the application is from a person in the military service, it will be forwarded through channels to The Adjutant General, together with recommendation as to the issuance of a duplicate.

(ii) If from a person not in the service, it will be forwarded by him directly to The Adjutant General. (34 Stat. 621; 40 Stat. 873; 10 U.S.C. 1413, 1413a) [Pars. 17 and 18, AR 600-65, Nov. 20, 1928]

§ 78.30 *Exhibition purposes.* Upon approval by the Secretary of War, samples of service medals will be furnished at cost prices, plus transportation and packing charges (except to the War Department or a governmental agency), to museums, libraries, historical, numismatic, and military societies, or institutions of such a public nature as will insure an opportunity to the public to view the exhibits. Except for a War Department or a governmental agency exhibit, all sample medals so furnished will be engraved, at the expense of the purchaser, with the words "For exhibition purposes only." (34 Stat. 621; 40 Stat. 873; 10 U.S.C. 1413, 1413a) [Par. 19, AR 600-65, Nov. 20, 1928]

[SEAL] E. S. ADAMS,
Major General,
The Adjutant General.

[F. R. Doc. 41-3960; Filed, June 3, 1941, 9:56 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3142]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF REX MERCHANDISE CORPORATION OF AMERICA, ET AL.

§ 3.66 (f) *Misbranding or mislabeling—Price.* In connection with offer, etc., in commerce, of shaving creams, tooth pastes and other toiletries or cosmetics, or other merchandise, (1) representing, through fictitious prices marked or stamped on, or affixed to, said products, or on the containers thereof, or through any other means or device, or in any manner, that said prices so marked, stamped or affixed are the regular or customary retail prices for such products, and (2) representing as the customary or regular retail prices for such products prices which are in fact fictitious and greatly in excess of the prices at which said products are regularly offered for sale and sold at retail, prohibited. (Sec. 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Rex Merchandise Corporation of America, et al., Docket 3142, May 16, 1941]

In the Matter of Rex Merchandise Corporation of America, and Peter Meyer and Wyette Meyer, Individually and as Officers of Rex Merchandise Corporation of America; Crown Laboratories, Inc., and Trading Under Various Trade Names; and Arthur A. J. Weglein, Alexander Hirshbein, and Francis Chorba, Individually and as Officers of Crown Laboratories, Inc.; Sheray, Incorporated, and William Sher, and Anna Sher, Individually and as Officers of Sheray, Incorporated; and Wilshire Sales Corporation, and William Sher, Individually and as an Officer of Wilshire Sales Corporation

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of May, A. D. 1941.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the joint answer of respondents Sheray, Incorporated, Wilshire Sales Corporation, William Scher and Anna Scher, testimony and other evidence in support of the allegations of said complaint and in opposition thereto taken before Edward E. Reardon, a trial examiner of the Commission theretofore duly designated by it, the report of the trial examiner thereon and brief filed on behalf of the Commission, and the Commission having made its findings as to the facts and its conclusion that all of the respondents have violated the provisions of the Federal Trade Commission Act:

It is ordered, That respondents Rex Merchandise Corporation of America, Crown Laboratories, Inc., Sheray, Incorporated, and Wilshire Sales Corporation, corporations, their officers, directors, representatives, agents and employees; Peter Meyer, individually and as an officer of Rex Merchandise Corporation of America; Arthur A. J. Weglein, Alexander Hirschbein and Frances Chorba, individually and as officers of Crown Laboratories, Inc.; William Scher and Anna Scher, individually and as officers of Sheray, Incorporated and Wilshire Sales Corporation, their representatives, agents and employees, directly or indirectly, through any corporate or other device, in connection with the offering for sale, sale and distribution of shaving creams, tooth pastes and other toiletries or cosmetics, or other merchandise, in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing, through fictitious prices marked or stamped on, or affixed to, said products, or on the containers thereof, or through any other means or device, or in any manner, that said prices so marked, stamped or affixed are the regular or customary retail prices for such products;

(2) Representing as the customary or regular retail prices for such products prices which are in fact fictitious and greatly in excess of the prices at which said products are regularly offered for sale and sold at retail.

It is further ordered, That this proceeding, insofar as it relates to respondent Wyette Meyer, be and the same is hereby closed.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3947; Filed, June 3, 1941; 9:36 a. m.]

[1] 3 F.R. 882.

[Docket No. 3360]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF ALLIED SPECIALTIES, INC., ET AL.

§ 3.69 (b) (2.5) *Misrepresenting oneself and goods—Goods—Earnings:* § 3.72 (c) *Offering deceptive inducements to purchase—Excessive earnings:* § 3.72 (f15) *Offering deceptive inducements to purchase—Guarantee, in general:* § 3.72 (n10) *Offering deceptive inducements to purchase—Terms and conditions.* In connection with offer, etc., in commerce, of nut display warmers and nuts for use therein and other similar products, and among other things, as in order set forth, (1) representing any specified sum of money as possible earnings or profits of operators or purchasers of respondents' nut display warmers which is not a true representation of the average net earnings or profits consistently made by operators of such nut display warmers in the ordinary course of business and under normal conditions and circumstances; and (2) representing, directly or by inference, that respondents guarantee any specified amount as earnings or profits to purchasers or operators of respondents' nut display warmers; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Allied Specialties, Inc., et al., Docket 3360, May 21, 1941]

§ 3.69 (a) (.5) *Misrepresenting oneself and goods—Business status, advantages or connections—Business methods.* In connection with offer, etc., in commerce, of nut display warmers and nuts

for use therein and other similar products, and among other things, as in order set forth, representing, directly or by inference, that the respondents assign exclusive territorial rights within any certain trade area to any purchaser or prospective purchaser of said nut display warmers when such exclusive territory is not, in fact, allotted and maintained by the respondents, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Allied Specialties, Inc., et al., Docket 3360, May 21, 1941]

§ 3.69 (b) (15) *Misrepresenting oneself and goods—Goods—Refunds:* § 3.72 (k15) *Offering deceptive inducements to purchase—Returns and reimbursements:* § 3.72 (l) *Offering deceptive inducements to purchase—Sales assistance.* In connection with offer, etc., in commerce, of nut display warmers and nuts for use therein and other similar products, and among other things, as in order set forth, representing, directly or by inference, (1) that respondents obtain locations for said nut display warmers when locations for all nut warmers sold by them are not, in fact, obtained by the respondents; and (2) that the respondents resell or permit the return of said nut display warmers for refund of investment in case the purchaser thereof is dissatisfied, unless and until such devices are so disposed of and the investment, in fact, returned to dissatisfied customers; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b [Cease and desist order, Allied Specialties, Inc., et al., Docket 3360, May 21, 1941]

In the Matter of Allied Specialties, Inc., a Corporation, Ralph J. Biery, William G. White, and Anne Stringer, Individually, and as President, Vice-President and Secretary-Treasurer, Respectively, of Said Corporation

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of May, A. D. 1941.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, answers of the respondents, testimony and other evidence taken before trial examiners of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, the report of the trial examiners upon the evidence, and brief filed in support of the complaint; and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent Allied Specialties, Inc., a corporation, its officers, directors, agents, representatives, and employees and the respondents Ralph J. Biery, an individual, and Anne Stringer, an individual, and their respective representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of nut display warmers and nuts for use therein and other similar products in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Representing any specified sum of money as possible earnings or profits of operators or purchasers of respondents' nut display warmers which is not a true representation of the average net earnings or profits consistently made by operators of such nut display warmers in the ordinary course of business and under normal conditions and circumstances;

(2) Representing, directly or by inference, that the respondents assign exclusive territorial rights within any certain trade area to any purchaser or prospective purchaser of said nut display warmers when such exclusive territory is not, in fact, allotted and maintained by the respondent;

(3) Representing, directly or by inference, that respondents obtain locations for said nut display warmers when locations for all nut warmers sold by the respondents are not, in fact, obtained by the respondents;

(4) Representing, directly or by inference, that the respondents resell or permit the return of said display nut warmers for refund of investment in case the purchaser thereof is dissatisfied, unless and until such devices are so disposed of and the investment, in fact, returned to dissatisfied customers.

(5) Representing, directly or by inference, that respondent guarantee any specified amount as earnings or profits to purchasers or operators of respondents' nut display warmers.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That the complaint be dismissed as to the respondent William G. White.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 41-3949; Filed, June 3, 1941; 9:37 a. m.]

[1] 3 F.R. 1147.

[Docket No. 3934]

PART 8—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF WITOL, INC., ET AL.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly — Results:* § 3.6 (dd) *Advertising falsely or misleadingly—Special offers:* § 3.72 (n) *Offering deceptive inducements to purchase—Special offers.* Disseminating, etc., in connection with offer, etc., of respondents' cosmetic preparations known as "Witol's New Liquid Skin Peel" and "Take-Off", or any other substantially similar preparations, any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparation, which advertisements represent, directly or through inference, (1) that respondents' said preparations will remove the outer layer of the human skin and give the user a new, fresh surface skin, (2) that said preparations are effective in the treatment of pimples, blackheads, whiteheads, freckles, or superficial blemishes of the skin, (3) that the use of said preparations will cause large pores and fine lines to diminish, and (4) that said preparations are sold by means of a special or limited offer when the method of distribution is the usual and customary method used by the respondents in the usual and customary course of business, and when there is no limitation of the sale of such products, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Witol, Inc., et al., Docket 3934, May 23, 1941]

In the Matter of Witol, Inc., Witol Beauty Laboratories, Inc., Corporations, and William Witol, Ann Felix, and Hattie Blankfeld, Individually and as Officers of Witol, Inc., and Witol Beauty Laboratories, Inc.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 23rd day of May, A. D. 1941.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, answer of the respondents, testimony and other evidence taken before trial examiners of the Commission theretofore duly designated by it, in support of the allegations of the complaint, report of the trial examiners upon the evidence, and brief in support of the complaint (no brief having been filed by respondents or oral argument requested), and the Commission having made its findings as to the facts and its conclusion that said respondents Witol, Inc., a corporation, Witol Beauty Laboratories, Inc., a corporation, and William Witol, an individual and as officer of Witol, Inc., and Witol Beauty Laboratories, Inc., have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents Witol, Inc., a corporation, and Witol Beauty Laboratories, Inc., a corporation, their officers, representatives, agents, and employees, and respondent William Witol, an individual, and his representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of their cos-

[1] 4 F.R. 4869.

metic preparations known as "Witol's New Liquid Skin Peel" and "Take-Off" or any other preparations of substantially similar compositions or possessing substantially similar properties, whether sold under the same names or under any other names, do forthwith cease and desist from directly or indirectly

(1) Disseminating, or causing to be disseminated, any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference,

(a) That respondents' preparations "Witol's New Liquid Skin Peel" or "Take-Off" will remove the outer layer of the human skin and give the user a new, fresh surface skin or

(b) That respondents' said preparations are effective in the treatment of pimples, blackheads, whiteheads, freckles, or superficial blemishes of the skin or

(c) That the use of said preparations will cause large pores and fine lines to diminish or

(d) That said preparations are sold by means of a special or limited offer when the method of distribution is the usual and customary method used by the respondents in the usual and customary course of business, and when there is no limitation of the sale of such products.

(2) Disseminating, or causing to be disseminated, any advertisement, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of respondents' cosmetic preparations "Witol's New Liquid Skin Peel" or "Take-Off," which advertisement contains any of the representations prohibited in paragraph 1 hereof and respective subdivisions thereof.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That the complaint be dismissed as to the respondents Ann Felix and Hattie Blankfeld.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3946; Filed, June 3, 1941; 9:35 a. m.]

[Docket No. 4128]

PART 3—DIGEST OF CEASE AND DESIST ORDERS

IN THE MATTER OF PETALSKIN TOILETRIES, INC.

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Disseminating, etc., in connection with offer, etc., of respondent's "Petalskin Face Cream", "Petalskin Face Tonic", Petalskin Cream Pastelle", "Petalskin Face Powder" and "Petalskin Hand Cream", or any other substantially similar cosmetic preparations, any advertisements by means of the United States mails, or in commerce, or by any means, to induce, etc., directly or indirectly, purchase in commerce, etc., of said preparations, which advertisements represent, directly or through inference, (1) that respondent's Petalskin Face Cream penetrates deeply into the pores of the skin or that it cleanses the pores any deeper than the external openings thereof, or that the use thereof furnishes nourishment to the skin or supplies vitamin F or has any value in restoring the skin; (2) that respondent's Petalskin Face Tonic will close or refine the pores of the skin; (3) that respondent's Petalskin Cream Pastelle will refine or close the pores of the skin, correct or remove the cause of enlarged pores, or have any effect thereon in excess of removing the superficial accumulation of dirt from the pore openings; (4) that respondent's Petalskin Face Powder will not clog the openings of the pores of the skin; and (5) that its Petalskin Hand Cream will penetrate the skin or counteract aging of the skin; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Petalskin Toiletries, Inc., Docket 4128, May 15, 1941]

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 15th day of May, A. D. 1941.

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, testimony and other evidence taken before John W. Addison, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and report of the trial examiner thereon, brief in support of the complaint, and the Commission having made its findings as to the facts and its conclusion that respondent has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Petalskin Toiletries, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution of its cosmetic preparations designated "Petalskin Face Cream," "Petalskin Face Tonic," "Petalskin Cream Pastelle," "Petalskin Face Powder," and "Petalskin Hand Cream," or any products of substantially similar compositions or possessing substantially similar properties, whether sold under the same names or under any other names, do forthwith cease and desist from directly or indirectly:

(1) Disseminating, or causing to be disseminated, any advertisement by means of the United States mails or by any means in commerce as "commerce" is defined in the Federal Trade Commission Act, which advertisement represents, directly or through inference,

(a) That respondent's preparation Petalskin Face Cream penetrates deeply into the pores of the skin or that it cleanses the pores any deeper than the external openings thereof, or that the use of said preparation furnishes nourishment to the skin or supplies vitamin F or has any value in restoring the skin;

(b) That respondent's preparation Petalskin Face Tonic will close or refine the pores of the skin;

(c) That respondent's preparation Petalskin Cream Pastelle will refine or close the pores of the skin, correct or remove the cause, of enlarged pores, or have any effect thereon in excess of removing the superficial accumulation of dirt from the pore openings;

(d) That respondent's preparation Petalskin Face Powder will not clog the openings of the pores of the skin;

(e) That its product Petalskin Hand Cream will penetrate the skin or counteract aging of the skin.

(2) Disseminating, or causing to be disseminated, any advertisement by any means for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce as "commerce" is defined in the Federal Trade Commission Act, of respondent's cosmetic preparations "Petalskin Face Cream," "Petalskin Face Tonic," "Petalskin Cream Pastelle," "Petalskin Face Powder," and "Petalskin Hand Cream," which advertisement contains any of the representations prohibited in paragraph 1 hereof and respective subdivisions thereof.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3948; Filed, June 3, 1941; 9:37 a. m.]

[1] 5 F.R. 4657.

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T. D. 50402]

PART 4—APPLICATION OF CUSTOMS LAWS TO AIR COMMERCE

CERTAIN AIRPORTS REDESIGNATED AS AIRPORTS OF ENTRY FOR A PERIOD OF ONE YEAR[1]

MAY 31, 1941.

The following-named airports are hereby redesignated as airports of entry

[1] This document affects the tabulation in 19 CFR 4.13.

for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the Air Commerce Act of 1926 (U.S.C. title 49, sec. 179 (b)), for a period of one year from the dates shown opposite their names:

Name and location	*Date of redesignation*
John G. Hinde Airport, Sandusky, Ohio	June 1, 1941
Great Falls Municipal Airport, Great Falls, Mont	June 2, 1941
Havre Municipal Airport, Havre, Mont	June 2, 1941
Spokane Municipal Airport (Felts Field), Spokane, Wash	June 2, 1941
Watertown Municipal Airport, Watertown, N. Y	June 2, 1941

(Sec. 7 (b), 44 Stat. 572; 49 U.S.C. 177 (b)).

[SEAL] HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 41-3963; Filed, June 3, 1941; 9:58 a. m.]

[T.D. 50400]

PART 6—INVOICES, ENTRY, AND ASSESSMENT OF DUTIES

PART 8—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

ARTICLE 299 (B) (4), AND ARTICLE 435 (B), AS AMENDED BY T. D. 49658,[1] CUSTOMS REGULATIONS OF 1937, AMENDED TO DISPENSE WITH CONSULAR INVOICES FOR AUTOMOBILES IMPORTED FROM CONTIGUOUS COUNTRIES AND ENTERED UNDER SECTION 308 (1) OF THE TARIFF ACT OF 1930, AS AMENDED[2]

The Customs Regulations of 1937 are amended as follows:

Section 6.16 (b) (4), *Invoices to be filed with entry,* [Article 299 (b) (4)] is amended by deleting the word "and" following the first semicolon, changing the second semicolon to a comma, and adding the following words: "and automobiles imported from contiguous countries and entered under section 308 (1) of the tariff act, as amended;". (Secs. 484 (b), 624, 46 Stat. 722, 759; 19 U.S.C. 1484 (b), 1624)

Section 8.34 (b), *Entry; Bond,* [Article 435 (b), as amended by (1938) T. D. 49658] is further amended by changing the period at the end of the last sentence to a comma and adding the words "and automobiles imported from contiguous countries and entered under section 308 (1), as amended." (Secs. 484 (b), 624, 46 Stat. 722, 759; 19 U.S.C. 1484 (b), 1624)

[SEAL] W. R. JOHNSON,
Commissioner of Customs.

Approved: May 29, 1941.

HERBERT E. GASTON,
Acting Secretary of the Treasury.

[F. R. Doc. 41-3962; Filed, June 3, 1941; 9:58 a. m.]

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[1] 3 F.R. 1808.
[2] This document affects 19 CFR 6.16 and 8.34.

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T.D. 5048]

PART 3—INCOME TAX UNDER THE REVENUE ACT OF 1936

PART 9—INCOME TAX UNDER THE REVENUE ACT OF 1938

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

REGULATIONS 103, 101, 94, AND 86, AMENDED, INVENTORIES OF RETAIL MERCHANTS

Section 19.22 (c)-8, *Inventories of retail merchants,* of Regulations 103[1] (Part 19, Title 26, Code of Federal Regulations, 1940 Sup.), article 22 (c)-8 of Regulations 101[2] (Part 9, Title 26, Code of Federal Regulations, 1939 Sup.), article 22 (c)-8 of Regulations 94[3] (Part 3, Title 26, Code of Federal Regulations), and article 22 (c)-8 of Regulations 86, are amended by adding at the end thereof the following:

A taxpayer who previously has determined inventories in accordance with the foregoing, except that, to obtain a basis of approximate cost or market, whichever is lower, the practice has been followed, consistently and uniformly, of adjusting the retail selling prices of the goods included in the opening inventory and purchased during the year for mark-ups but not for mark-downs, may continue such practice subject to the conditions herein prescribed. The adjustments must be bona fide and consistent and uniform. Where mark-downs are not included in the adjustments, mark-ups made to cancel or correct mark-downs shall not be included; and the mark-ups included must be reduced by the mark-downs made to cancel or correct such mark-ups.

In no event shall mark-downs not based on actual reduction of retail sales prices, such as mark-downs based on depreciation and obsolescence, be recognized in determining the retail selling prices of the goods on hand at the end of the year.

Section 19.22 (c)-8 of Regulations 103 is further amended by inserting, immediately following the concluding paragraph of the amendatory matter above set forth, an additional paragraph reading as follows:

A taxpayer who previously has determined inventories without following the practice of eliminating mark-downs in making adjustments to retail selling prices, may adopt such practice, provided permission to do so is obtained in accordance with, and subject to the terms provided by, § 19.41-2. A taxpayer filing a first return of income may adopt such practice subject to approval by the Commissioner upon examination of the return.

This Treasury decision is prescribed pursuant to sections 22 (c) and 62 of the Internal Revenue Code (53 Stat., 11, 32), and sections 22 (c) and 62 of the Revenue Acts of 1938, 1936, and 1934 (52 Stat., 459, 480, 49 Stat., 1658, 1673, 48 Stat., 688, 700; 26 U.S.C., 22, 62, and Sup.).

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: June 2, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41-3943; Filed, June 2, 1941; 12:08 p. m.]

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[1] 5 F.R. 372.
[2] 4 F.R. 637.
[3] 1 F.R. 1821.

[T. D. 5049]

PART 19—INCOME TAX UNDER THE INTERNAL REVENUE CODE

REGULATIONS 103, AS AMENDED BY TREASURY DECISION 5016,[1] AMENDED TO CONFORM TO PUBLIC LAW 3 (77TH CONGRESS), EXTENDING TIME FOR CERTIFICATION OF NATIONAL-DEFENSE FACILITIES AND CONTRACTS FOR AMORTIZATION PURPOSES

In order to conform Regulations 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.], as amended by Treasury Decision 5016, approved October 23, 1940 (I.R.B. 1940-44, 6), to the provisions of Public Law 3 (77th Congress), approved January 31, 1941, extending the time for certification of national-defense facilities and contracts for amortization purposes, such regulations are amended as follows:

PARAGRAPH 1. The following is inserted immediately preceding § 19.124-1:

PUBLIC LAW 3, APPROVED JANUARY 31, 1941

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 124 (f) (1) of the Internal Revenue Code is amended by striking out ", within the time specified in paragraph (3) of this subsection, and".

SEC. 2. Section 124 (f) (3) of the Internal Revenue Code is amended to read as follows:

"The certificate provided for in paragraph (1) shall have no effect unless an application therefor is filed before the expiration of sixty days after the beginning of such construction, reconstruction, erection, or installation or the date of such acquisition, or before February 6, 1941, whichever is later: *Provided,* That in no event and notwithstanding any of the other provisions of this section, no amortization deduction shall be allowed in respect of any emergency facility for any taxable year unless a certificate in respect thereof under paragraph (1) of this subsection shall have been made prior to the making of the election, pursuant to subsection (b) and (d) (4) of this section, to take the amortization deduction and begin the sixty-month period in or with such taxable year, or before February 6, 1941, whichever is later."

SEC. 3. Section 124 (1) of the Internal Revenue Code is amended—

(a) By striking out from the first sentence thereof ", before the expiration of ninety days after the making of such contract or one hundred and twenty days after the date of the enactment of the Second Revenue Act of 1940, whichever of such periods expires the later,";

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[1] 5 F.R. 4217.

(b) By striking out from the second sentence thereof ", before the expiration of ninety days after the making of a contract or one hundred and twenty days after the date of the enactment of the Second Revenue Act of 1940, whichever of such periods expires the later,"; and

(c) By adding after the second sentence thereof a new sentence to read as follows: "The certificates provided for under this subsection shall have no effect unless an application therefor is filed before the expiration of sixty days after the making of such contract, or before February 6, 1941, whichever is later."

SEC. 4. The amendments made by this joint resolution to section 124 of the Internal Revenue Code shall be applicable as if they were a part of such section on the date of the enactment of the Second Revenue Act of 1940.

PAR. 2. Section 19.124–1 (c) is amended to read as follows:

§ 19.124–1 *Definitions.*

* * * * *

(c) "Emergency facility" means any facility, land, building, machinery, or equipment, or any part thereof—

(1) the acquisition of which occurred after June 10, 1940, or the construction, reconstruction, erection, or installation of which was completed after such date, and

(2) any part of the construction, reconstruction, erection, installation, or acquisition of which has been certified by the Advisory Commission and the Secretary of the Department concerned as necessary in the interest of national defense during the emergency period (such certificate to have no effect unless an application therefor is filed (i) before the expiration of 60 days after the beginning of such construction, reconstruction, erection, or installation, or the date of such acquisition, or (ii) before February 6, 1941, whichever date is the later).

The term "emergency facility," as so defined, may include, among other things, improvements of land, such as the construction of airports and the dredging of channels.

PAR. 3. Section 19.124–9 is amended to read as follows:

§ 19.124–9 *Reimbursement by United States for cost of facility.* If the taxpayer has been or will be reimbursed by the United States for all or a part of the cost of any emergency facility pursuant to any contract with the United States, no amortization deductions will be allowed with respect to such facility for any month after the end of the month in which such contract is made, unless the Advisory Commission and the Secretary of the Department concerned have certified to the Commissioner that the contract contains provisions adequately protecting the United States with reference to the future use and disposition of such facility. For treatment of reimbusements, see § 19.124–6. If the Advisory Commission and the Secretary of the Department concerned have certified to the Commissioner that under such contract no reimbursement is provided for within the meaning of section 124 (i), such certificate shall be conclusive of such fact. The certificates referred to in this section shall have no effect unless an application therefor is filed (a) before the expiration of 60 days after the making of such a contract, or (b) before February 6, 1941, whichever date is the later.

(This Treasury decision is issued under the authority contained in sections 1 to 4, inclusive, of Public Law 3 (77th Congress) and section 62 of the Internal Revenue Code, 53 Stat. 32 (26 U.S.C., Sup. V, 62).)

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: May 29, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41–3964; Filed, June 3, 1941; 9:58 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER IV—PETROLEUM CONSERVATION DIVISION

PART 403—REGULATIONS GOVERNING REPORTS AND INSPECTIONS OF FACILITIES AND AGENCIES FOR THE PRODUCTION, PROCESSING, STORAGE AND TRANSPORTATION OF PETROLEUM AND PETROLEUM PRODUCTS

By virtue of the authority vested in me by the Executive Order No. 7756 [1] of December 1, 1937, I hereby prescribe the following regulations for the administration and enforcement of the act of February 22, 1935 (49 Stat. 30), as amended by the act of June 14, 1937 (50 Stat. 257), and by the act of June 29, 1939 (53 Stat. 927). (15 U.S.C. Supp. 715d, 715j, 715–l.)

Sec.

§ 403.1 *Designated areas.* Until further order the regulations in this part shall be applicable only to that part of the State of New Mexico included within the Counties of Lea and Eddy, to that part of the State of Texas included within the Counties of:

Anderson	Burleson
Andrews	Calhoun
Angelina	Cameron
Aransas	Camp
Austin	Cass
Bee	Chambers
Borden	Cherokee [2]
Bowie	Cochran
Brazoria	Colorado
Brazos	Crane
Brooks	Crockett
Dawson	Midland
DeWitt	Mitchell
Duval	Montgomery
Ector	Morris
Fayette	Nacogdoches
Fisher	Newton
Fort Bend	Nueces
Franklin	Orange
Gaines	Panola
Galveston	Pecos
Garza	Polk
Glasscock	Red River
Goliad	Reeves
Gonzales	Refugio
Grimes	Regan
Hardin	Sabine
Harris	San Augustine
Harrison	San Jacinto
Hidalgo	San Patricio
Hockley	Scurry
Houston	Shelby
Howard	Starr
Jackson	Terry
Jasper	Titus
Jefferson	Trinity
Jim Hogg	Tyler
Jim Wells	Upton
Karnes	Victoria
Kenedy	Walker
Kleberg	Waller
Lavaca	Ward
Lee	Washington
Liberty	Webb
Live Oak	Wharton
Loving	Willacy
Lynn	Wilson
Madison	Winkler
Marion	Wood
Martin	Yoakum
Matagorda	Zapata

and to the entire State of Louisiana, which area is hereinafter referred to as the designated area.*

*§§ 403.1 to 403.11 issued pursuant to the authority contained in E.O. 7756; 49 Stat. 30, 50 Stat. 257, 53 Stat. 927.

§ 403.2 *Federal Tender Board No. 1 designated to administer these regulations.* Federal Tender Board No. 1, hereinafter referred to as the board, is hereby designated to administer the regulations prescribed in this part under the supervision of the Secretary of the Interior.*

§ 403.3 *Definitions.* When used in this part or in subsequent orders and regulations prescribed pursuant to said act and Executive orders, or in any forms prescribed thereunder:

The term "person" shall include any individual, partnership, corporation or joint stock company.

The term "producer" shall include every person having any part in the control or management of any operation by which petroleum is produced from any property. Every person in possession of crude petroleum who refuses to identify the prior owner thereof, from whom he acquired the same, shall be deemed the producer of such petroleum within the meaning of this part.

The term "refiner" shall include every person who has any part in the control or management of any operation by

[1] 2 F.R. 2664.

[2] Except that part covered by the Miguel de los Santos Coy, Pratt and Wesley Dikes Surveys.

which the physical or chemical characteristics of petroleum or petroleum products are changed, but exclusive of the operations of passing petroleum through separators to remove gas, placing petroleum in settling tanks to remove basic sediment and water, dehydrating petroleum and generally cleaning and purifying petroleum. Within the term shall be included every person who blends petroleum with any product of petroleum.

The term "reclamation plant" shall include every plant operated in the process of reclaiming, treating or washing waste petroleum, wash oil, pit oil, fugitive oil, basic sediment, or tank bottoms.

The term "Casinghead gasoline plant" shall include every plant or device by the use of which gasoline or natural gasoline or casinghead gasoline (as those terms are commonly understood in the industry), or any of them, is extracted by any process or method from natural gas or casinghead gas, or from any gas liberated from petroleum in the process of refining.

The term "pipe line" shall include every line of pipe, however constructed and regardless of length, and all receiving, storage and delivery tanks and facilities used in the operation thereof, by which petroleum or any petroleum product is transported, regardless of whether or not such line of pipe is owned, in whole or in part, by the person producing, refining, processing, manufacturing, purchasing, cleansing, or marketing such petroleum or such petroleum product, or by any or all such persons jointly, or by any other person or combination of persons, except that the term "pipe line" shall not include any line from a well to lease storage, or any line used in actual plant operations, and not used in the receipt or delivery of petroleum or petroleum products. The terms "pipe line system" and "gathering system" are included within the term "pipe line."

The term "transporting agency" shall include railroads, pipe lines, gathering systems, tankers, barges, trucks, or any other means of conveyance used for transporting petroleum or petroleum products.

The term "storer" shall include every person who places petroleum or any petroleum product in any receptacle and keeps the same in any such receptacle for any period of time longer than is usually required in the ordinary conduct of business to move the same currently into the channels of trade and commerce; but excluding the ordinary working stocks of refiners and transporters by pipe line.

The term "petroleum" when used singly and separate and apart from "product" shall include petroleum in its crude form, and the terms "product (or products) of petroleum" or "petroleum product (or products)" shall include any article produced or derived in whole or in part from petroleum or any product thereof by refining, processing, manufacturing or otherwise. Whenever natural gas is produced in conjunction or coincidentally with petroleum, such natural gas and all products derived therefrom shall be considered petroleum products. The terms "oil," "crude oil," and "crude petroleum" shall be considered synonymous with petroleum in these regulations.

The term "barrel of petroleum" means 42 United States gallons of petroleum measured and calculated to net or gross quantities in accordance with the regulations of the State authorities in force at the point of production, or in the absence of such regulations, measured and calculated in the manner generally in use in the industry at such point of production. The term "barrel" as used otherwise in these regulations shall mean 42 United States gallons of the article referred to.

The term "contraband oil" means petroleum which, or any constituent part of which, was produced, transported, or withdrawn from storage in excess of the amounts permitted to be produced, transported, or withdrawn from storage under the laws of a State or under any regulation or order prescribed thereunder by any board, commission, officer, or other duly authorized agency of such State, or any of the products of such petroleum.

The term "interstate commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, or from any place in the United States to a foreign country, but only in so far as such commerce takes place within the United States.*

§ 403.4 *Inspection books and records; examination properties and facilities.* All persons producing, refining, processing, manufacturing, transporting, withdrawing from storage or otherwise handling petroleum or any petroleum product in the designated area shall permit any person or persons authorized by the Secretary of the Interior or by the board to enter upon their properties, plants and facilities, and to examine all the books and records kept or required to be kept in accordance with this order, and all other books, papers, records, vouchers, run-tickets, bills of lading, way bills, charges, memoranda, diagrams showing the location of each lease, the location and identifying number of each well, the location, capacity and identifying number of each tank, the size of all pipe lines, flow lines and gathering systems and other outlets attached to their properties, and every method by which oil is delivered to and from their properties, or other documents which are used by them in connection with producing, refining, processing, manufacturing, transporting, withdrawing from storage or otherwise handling petroleum or any petroleum products, and to inspect such plants, facilities and properties, and to gauge tanks, and to examine wells, pipe lines, gathering systems, flow lines, pipe connections, storage tanks, loading racks, separators, pumps, meters or other measuring devices, and any other equipment or instruments.*

§ 403.5 *Measurements; records.* Every producer, transporter, storer and refiner in the designated area shall accurately gauge and measure all petroleum and petroleum products before any part thereof leaves his possession or control. No means or device which prevents or hinders such accurate measurement shall be used. Complete and accurate records of all such measurements shall be kept up to date and preserved, and shall be open to the inspection of any person authorized by the Secretary of the Interior or by the board.*

§ 403.6 *Records.* From the effective date of this part the following records shall be made and preserved accurately and completely showing the following facts with respect to production, refining, processing, manufacturing, transporting, withdrawing from storage or otherwise handling petroleum or petroleum products in the designated area:

(a) By producers:

(1) *Location; wells; allowable production.* The location of the producing properties, the number and location of wells thereon, and the allowable production for each property and well as prescribed by the proper State agency.

(2) *Owners.* The names and addresses of all persons having any interest in or title to the petroleum at the time of its production, including those owning royalty or overriding royalty interests.

(3) *Inventories.* An opening and closing inventory of the crude petroleum on hand each 24-hour day.

(4) *Production.* The daily production in barrels of petroleum produced from each lease and well (estimated as to wells which are produced into common tankage and of which no separate gauge is made) with a notation of the allowance made for basic sediment and water, and the tanks, identified by number and location into which the petroleum is run.

(5) *Consumption.* The amount of petroleum consumed upon each property daily.

(6) *Deliveries.* A daily record of all deliveries of petroleum or petroleum products, showing the names and places of business of all persons to whom such petroleum or petroleum products are delivered, whether purchasers, consignees or transporting agencies, the quantity involved in each delivery, transportation or other disposition, the identity of the means of transportation by which the petroleum or products are removed.

(7) *Tickets.* Gauge tickets, and run tickets, as made by the employees actually performing or observing the operations to which such records relate.

(8) *True copies.* True and complete copies of all reports, communications and diagrams filed or required to be filed under this part.

(9) *Other records.* Such other records as may now be required under the rules and regulations of other governmental agencies, State or Federal, which

supervise, regulate or tax the production of petroleum.

(b) By every purchaser, refiner, storer, shipper or consignor of petroleum or petroleum products, by every casinghead gasoline plant, and by every person dealing in petroleum or petroleum products as a factor, broker, buyer or seller:

(1) *Inventories.* An opening and closing inventory of petroleum and petroleum products on hand each 24-hour day.

(2) *Receipts.* The daily receipts of petroleum and the petroleum products showing the amount received, the place and date of each receipt, the tanks identified by location and number into which received, the names and addresses of all producers or other persons from whom the crude petroleum and the petroleum products were received, a description identifying the transporting agency by which received.

(3) *Consumption.* The amount of petroleum and petroleum products used or otherwise disposed of daily showing the amount run to stills and to cracking units and the amount and type of petroleum products refined, processed or manufactured.

(4) *Deliveries; purchasers; transporter.* A daily record of all deliveries of petroleum and petroleum products including the names and addresses of purchasers and a description identifying the transporting agency delivering the same.

(5) *Reports of operations.* Crude, pumping, still, transfer, and yield reports as made by the employees actually performing or observing the operations to which such records relate.

(6) *True copies.* True and complete copies of all reports, communications, and diagrams filed or required to be filed under this part.

(7) *Other records.* Such other records as may now be required under the rules and regulations of other governmental agencies, State or Federal, which supervise, regulate or tax the purchasing, refining, storing, shipping, or consigning or otherwise dealing in as a factor, broker, buyer or seller of petroleum and petroleum products.

(c) By every person operating a reclamation plant:

(1) *Inventories.* An opening and closing inventory of all petroleum and petroleum products on hand each 24-hour day.

(2) *Receipts.* The number of barrels of each kind of petroleum and petroleum products which came into the possession of such plant daily, the name and address of each person for whom possession was acquired, the location from which the petroleum and petroleum products were acquired, the quantities acquired from each prior possessor and from each location, a description identifying the transporting agency by which such petroleum and petroleum products were acquired. In case any petroleum or petroleum product is picked up or reclaimed by such plant from any creek, river, stream or the bed thereof, such record shall also contain information as to the apparent source of the petroleum or petroleum product before it went into such creek, river, stream or the bed thereof.

(3) *Reclamation; destination; identification.* The number of barrels reclaimed by such plant daily and the disposition thereof showing the names and addresses of purchasers, a description identifying the transporting agency used in making delivery.

(4) *Original operating records.* The original records made by the employees actually performing or observing the operations to which such records relate as required by subparagraphs (1), (2) and (3) above.

(5) *True copies.* True and complete copies of all reports, communications and diagrams filed or required to be filed under this part.

(6) *Other records.* Such other records as may now be required under the rules and regulations of all other governmental agencies, State or Federal, which supervise, regulate or tax the reclaiming or handling of petroleum or petroleum products.

(d) By pipe lines:

(1) *Inventories.* An opening and closing inventory including overages of crude petroleum and petroleum products on hand each 24-hour day.

(2) *Receipts; consignors, consignees; origin; destination.* The daily receipts of all petroleum and petroleum products showing the kind, grade and quantity received, the names and addresses of the consignors, the names and addresses of the consignees, the points of origin and destination.

(3) *Locations; persons; transporting agencies.* In case of the first transporting pipe line, and where possible in cases of subsequent transporting pipe lines, the location of the properties where the petroleum or petroleum products were produced, refined, processed or manufactured, the names and addresses of persons removing the petroleum or petroleum products from the properties where produced, refined, processed or manufactured, and a description identifying the transporting agency used in making delivery from such properties.

(4) *Diversion; stoppage.* A record of all shipments of petroleum or petroleum products diverted prior to reaching the original point of destination or stopped in the course of transportation, showing the disposition thereof.

(5) *Shipping documents.* Copies of all run-tickets, way bills, division and transfer orders and other documents used in the transportation of petroleum or petroleum products.

(6) *True copies.* True and complete copies of all reports, communications and diagrams filed or required to be filed under this part.

(7) *Other records.* Such other records as may now be required under the rules or regulations of other governmental agencies, State or Federal, which supervise, regulate or tax the transportation of petroleum or petroleum products.

(e) By transporting agencies, other than pipe lines:

(1) *Shipments.* The daily shipments of all petroleum and petroleum products showing the kind, grade and quantity transported, the names and addresses of the consignors, the names and addresses of the consignees, the points of origin and destination, and in the case of railroads the car initials and numbers identifying the various shipments.

(2) *Diversion or stoppage.* A record of all shipments of petroleum or petroleum products diverted prior to reaching the original point of destination, or stopped in the course of transportation, showing the disposition thereof.

(3) *Shipping documents.* Copies of all way bills, bills of lading and other documents used in the transportation of petroleum or petroleum products.

(4) *True copies.* True and complete copies of all reports and communications filed or required to be filed under this part.

(5) *Other records.* Such other records as may now be required under the rules or regulations of other governmental agencies, State or Federal, which supervise, regulate or tax the transportation of petroleum or petroleum products.

(f) The records required by this section to be made and preserved shall be made currently as the transactions involved occur. Such records prescribed in subparagraphs (1), (3), (4), (5), and (6) of paragraph (a) of this Regulation shall be kept on the lease or property to which they relate, or shall be kept in the field office or field headquarters from which the operations on such properties are conducted. Such records prescribed under subparagraphs (1), (2), (3), and (4) of paragraph (b), (1), (2) and (3) of paragraph (c), and (1), (2), (3), and (5) of paragraph (d) of this section shall be kept at the field office or field headquarters from which the operations involved are conducted. Such records prescribed under subparagraphs (1) and (3) of paragraph (e) of this section shall be kept at the freight office where the shipping papers for any shipment originate.*

§ 403.7 *Accurate billing.* No transporting agency transporting petroleum or petroleum products from the designated area in interstate commerce shall accept for shipment any petroleum or any petroleum product unless the billing and other records of transportation covering such shipment truly and accurately describe by its proper and generally accepted name the commodity so shipped. Every transporting agency shall be held responsible for the truth of its records, way bills, bills of lading, division or transfer orders and other papers relating to such shipment, and shall be answerable as for a violation of the regulations in this part for each false bill-

ing of any such petroleum or petroleum product.*

§ 403.8 *Way bills.* Each transporting agency, other than pipe lines, transporting petroleum or petroleum products in or from the designated area shall make available daily to the board for inspection copies of all way bills, or other papers fulfilling the functions thereof, covering the movement during the preceding day of petroleum or petroleum products in or from said area, both interstate and intrastate. Upon request of the board such way bills or other papers shall be attached to an affidavit executed by a duly authorized agent of the transporting agency stating that the way bills or other papers cover all shipments of petroleum or petroleum products moved by the transporting agency during the period named therein.*

§ 403.9 *Monthly reports.* Each producer, refiner, reclamation plant, casinghead gasoline plant, transporting agency, and storer of petroleum or petroleum products in the designated area shall file with the board monthly reports on forms approved by the Secretary of the Interior: *Provided, however,* That this section shall not be construed to apply to shipments reported under the provisions of Regulation XVIII of Executive Order No. 7757[3] of December 1, 1937. Each report on such forms shall be subscribed and sworn to by the person required to file the same, using the form of affidavit therein contained, and the person required to file the report must make therein a full, truthful and complete disclosure of all the information required on the form and necessary to the full use thereof.*

§ 403.10 *Affidavits.* When any affidavit or other sworn statement is required by this part, or by orders promulgated pursuant hereto or to said act or Executive orders, to be made or filed by any person, such affidavit or sworn statement must be made or filed by any real person in interest owning, producing, refining, processing, manufacturing, transporting, withdrawing from storage or otherwise handling petroleum or petroleum products involved in the transaction or transactions which are the subject of such affidavit or sworn statement: *Provided, however,* That such affidavit or sworn statement may be made or filed by a duly authorized agent of such real party in interest when proof of his authorization has been filed with the board or other agency with which the affidavit or sworn statement is to be filed on or before the date of filing said affidavit or sworn statement.*

§ 403.11 *Saving clause and effective date*—(a) *Saving clause.* If any provision of this part or any clause, sentence or part hereof is held unauthorized or invalid for any reason, or the application thereof to any person, circumstance, commodity or class of transactions with respect to any commodity be held unauthorized or invalid for any reason, the validity of the remainder of this part and the application of such provisions to other persons, circumstances, commodities and classes of transactions shall not be affected thereby.

(b) *Effective date.* This part shall become effective on the first day of the month next following the sixtieth day after the date hereof: *Provided, however,* That if such sixtieth day is the first day of a month, this order shall become effective on that day.

HAROLD L. ICKES,
Secretary of the Interior.

THE WHITE HOUSE,
May 26, 1941.

Approved:

FRANKLIN D ROOSEVELT

[F. R. Doc. 41-3899; Filed, May 31, 1941; 9:42 a. m.]

[3] 2 F.R. 2668; 30 CFR 402.19.

TITLE 32—NATIONAL DEFENSE

CHAPTER IX—OFFICE OF PRODUCTION MANAGEMENT

[Regulation No. 6]

SUBCHAPTER A—GENERAL PROVISIONS

ESTABLISHING A PLANT SITE BOARD IN THE OFFICE OF PRODUCTION MANAGEMENT AND DEFINING PROCEDURE FOR CLEARANCE OF THE PROPOSED LOCATION OF NEW OR ADDITIONAL PLANTS AND FACILITIES REQUIRED FOR THE NATIONAL DEFENSE

Whereas Executive Order No. 8629, dated January 7, 1941,[1] created the Office of Production Management and charged it with certain duties, among others, pertaining to the formulation and execution of all measures needful or appropriate in order to increase, accelerate or regulate the provision of emergency plant or facilities required for the national defense, and the stimulation and planning of the creation of additional facilities and sources of production and supply; and

Whereas said Executive Order charged the Office of Production Management with the duty of insuring effective coordination of those activities of the several departments, corporations and other agencies of the Government which are directly concerned with the provision of emergency plant facilities required for the national defense; and

Whereas the Office of Production Management has heretofore, by its Regulation No. 2, promulgated March 7, 1941,[2] vested in the Director of Purchases responsibility for the clearance, prior to award, of all major proposals for the purchase or construction by the War Department or the Navy Department of materials, articles or equipment needed for defense;

Now, therefore, by virtue of the authority vested in the Office of Production Management by said Executive Order, it is hereby ordered that:

(1) There is hereby established in the Division of Purchases a Plant Site Board, hereinafter referred to as the Board, consisting of five members, one of whom shall be chairman. Three members of such Board shall constitute a quorum. The Director General, acting in association with the Associate Director General, shall appoint the members and designate the chairman.

(2) Whenever the Secretary of War, the Secretary of the Navy, or the Reconstruction Finance Corporation or any subsidiary thereof proposes to undertake or to contract for the construction or installation of any substantial plant or facility or the expansion in a substantial measure of any plant or facility required for the national defense, or to make any loan or to purchase securities in order to finance such construction, expansion or installation, the Board shall review the proposed location of such plant or facility for clearance as hereinafter provided.

(3) The Board is authorized to enter into arrangements with any other department, corporation, or agency of the Government for the submission to it for clearance of the proposed location of any plant or facility required for the national defense, the construction, expansion or installation of which such department, corporation or agency proposes to undertake, contract for, or finance by making loans or purchasing securities. Any such arrangement shall relate only to the construction or installation of substantial plants or facilities, or the expansion in a substantial measure of a plant or facility.

(4) If any division, bureau, office, or officer of the Office of Production Management shall make any recommendation to the War Department, the Navy Department, or any other department, corporation, or agency of the government with respect to the proposed location of any plant or facility required for the national defense, written notice of such recommendation shall immediately be given to the Board by such division, bureau, office, or officer.

(5) In reviewing for clearance the proposed location of any such plant or facility, the Board shall seek, in so far as it can do so consistently with due expedition of the program of defense production and appropriate factors of military strategy, to facilitate the geographic decentralization of defense industry and the full employment of all available labor and facilities.

(6) The Board shall seek to work in close cooperation with representatives of each such department, corporation, or agency from the outset of the process of selection of the location of any such plant or facility. Any proposal which the Board disapproves shall, if such department, corporation or agency so requests, be referred to the Council for final decision.

(7) Nothing herein shall be deemed to apply to (a) any proposal of the Secretary of War, or of any other department, corporation or agency of the Government, to undertake or contract for the

[1] 6 F.R. 191.
[2] 6 F.R. 1595.

construction, expansion or installation of any plant or facility required for defense with funds appropriated under any act which conditions the expenditure of such funds upon the recommendation of the Advisory Commission to the Council of National Defense (but the Director of Purchases shall serve as the liaison and channel of communication between the War Department or such other department, corporation, or agency and the Advisory Commission to the Council of National Defense with respect to any such proposal), nor to (b) any construction within or addition to any existing navy yard or naval reservation.

(8) The term "substantial", as used herein, shall be defined from time to time by the Council of the Office of Production Management upon the recommendation of the Board. The Board, after consultation with representatives of the department, corporation or agency affected, shall from time to time recommend such definition as it deems appropriate.

(9) The Board, through its Chairman, shall make such regular or special reports as may from time to time be required by the Council.

(10) The Board shall supersede the Plant Site Committee authorized by the Council of March 17, 1941. Subject to the provisions of this Regulation, the Board shall assume the duties and functions and continue the work of said Committee.

WM. KNUDSEN,
Director General.
SIDNEY HILLMAN,
Associate Director General.
HENRY L. STIMSON,
Secretary of War.
FRANK KNOX,
Secretary of the Navy.

Approved:

JOHN LORD O'BRIAN,
General Counsel.

Attest:

HERBERT EMMERICH,
Secretary.

MAY 6, 1941.

[F. R. Doc. 41-3944; Filed, June 2, 1941; 12:10 p. m.]

SUBCHAPTER B—PRIORITIES DIVISION

[Defense Supplies Rating Order No. P-6 [1]]

PART 931—DEFENSE SUPPLIES RATING ORDER

In the interest of National Defense, and pursuant to authority vested in the Director of Priorities, *now, therefore, it is hereby ordered:*

§ 931.1 *Defense supplies rating order.* (a) (1) "Producer" means

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(Corporation, firm or individual)

(Plant, division or department)

[1] Orders will be issued to various producers from time to time hereafter by the Director of Priorities in the form prescribed by this order.

to whom this Order is specifically issued, provided he has accepted the same as required by Paragraph (c) below.

(2) "Defense Supplies" means the materials, parts and assemblies entering directly or indirectly, at any stage of production, into material for delivery under any contracts or orders (i) placed by the Army or Navy, or (ii) for the defense of Great Britain, or (iii) for the government of any other country whose defense the President deems vital to the defense of the United States under "An Act to Promote the Defense of the United States" (Public No. 11, 77th Congress, First Session, approved March 11, 1941), or (iv) carrying a preference rating of A–1–a to A–10, inclusive; also, any material, parts or assemblies to be used for the manufacture or processing of the foregoing material.

(3) "Scarce Materials" mean the materials, parts and assemblies which enter into, or are to be used for the manufacture or processing of, Defense Supplies, and which the Producer cannot obtain from his suppliers sufficiently promptly to fulfill his required schedule of deliveries of Defense Supplies.

(b) Subject to all the terms, conditions and requirements of this Order, Preference Rating A–10 is hereby assigned:

(1) to deliveries to the Producer by his suppliers of those quantities of Scarce Materials:

(i) which are certified to the Producer by the Division of Priorities on Report PD–25 [2] filed by the Producer prior to the issuance of this Order to cover the quarter commencing ————, 19—,

(ii) which are certified to the Producer by the Division of Priorities on Report PD–25a (which form will be provided) to be filed from time to time hereafter by the Producer; and

(2) to deliveries to any supplier or any sub-supplier who has extended or re-extended this Order as provided in Paragraph (c), of those quantities of materials, parts and assemblies (*not* including any machinery or equipment used for the manufacture or processing of the same) which such supplier or sub-supplier requires to make possible his rated deliveries to the Producer, or the supplier, or the sub-supplier who has extended or re-extended this Order to him.

(c) Before this Order shall become effective in favor of the Producer, or any supplier or sub-supplier, so that he may apply said preference rating to deliveries to him which are ratable under Paragraph (b) above, he must:

(1) Execute a copy of this Order (as provided at the end hereof) and deliver such copy to the Division of Priorities.

(2) Execute and deliver an additional copy of this Order to each supplier or sub-supplier to whose ratable deliveries said preference rating is to apply. One copy furnished to a supplier or sub-supplier shall cover all such ratable deliveries to the Producer or a supplier or sub-supplier, whether such deliveries are pursuant to one or more orders placed at one time or from time to time and for one or more types of material.

(d) After extending and delivering a copy of the Order in the manner above set forth, the Producer or any supplier or sub-supplier shall thereafter, in applying the preference rating to deliveries of materials rated by this Order, refer on his contracts or orders therefor, to:

(i) this Defense Supplies Rating Order and its Serial Number,

(ii) the expiration date of said Order, and

(iii) the quantities of such materials to the deliveries of which the preference rating applies.

(e) If any Scarce Materials rated by this Order are assigned a higher preference rating by individual Preference Rating Certificates or other Orders, the Producer may use the higher rating instead of the rating assigned by this Order. Such higher preference rating and the rating assigned by this Order shall not both be applied to deliveries of the same Scarce Materials to fill the same production requirement.

(f) So long as this Order is in effect, the Producer, and any supplier or sub-supplier by whom the same has been extended, shall:

(1) Maintain complete and accurate records of all of his applications of said preference rating pursuant to this Order, and all of his extensions of this Order, to his suppliers or sub-suppliers, including the name and address of each such supplier or sub-supplier; the kinds, values and quantities of material covered by each such application and the dates of delivery thereof; and of all inventories and stocks on hand, and all orders and contracts on his books, in connection with the material rated by this Order. Such records, and all supporting information, affidavits and documents shall be preserved for at least one year after the revocation or expiration of this Order or amendments thereto.

(2) Furnish information respecting matters covered by (f) (1) and any other pertinent matters to the Division of Priorities from time to time as required.

(3) Until further order, the Producer and each such supplier and sub-supplier shall furnish such information by filing out in necessary detail, executing and delivering to the Division of Priorities on the ____ day of each month, the form of report attached hereto and identified as PD–25b.[2]

[2] Filed as a part of the original document; requests for copies should be addressed to Office of Production Management, Priorities Division.

(4) Submit from time to time to an audit and inspection by representatives of the Division of Priorities respecting matters covered by (f) (1) above and any matters pertinent to and in connection with Report PD–25, Report PD–25a and Report PD–25b filed with the Division of Priorities.

(g) This Order or any extensions thereof may be revoked, modified or amended by the Director of Priorities at any time as to the Producer, or as to any supplier or sub-supplier to whom it has been extended. In the event of any such revocation, or upon expiration of this Order by its terms, any deliveries of materials already rated pursuant to this Order shall be completed in accordance with said rating, unless said rating has been specifically revoked with respect thereto. No additional applications of such preference rating shall be made to any other deliveries by the Producer or by any supplier or sub-supplier affected by such revocation or after such expiration. Further, in the event of revocation of this Order, the Producer and each supplier and sub-supplier affected thereby shall each return to the Division of Priorities the copy of this Order issued or extended to him, within three days of such revocation; and the Director of Priorities may notify all affected suppliers and sub-suppliers of such revocation. No action taken pursuant to this paragraph, however, shall affect any specific *Preference Rating Certificate* or any rating issued or extended under any other Order to the Producer or any supplier or sub-supplier.

(h) This Order and the assignment of the preference rating herein provided shall take effect on the ____ day of _____, 1941, and unless sooner revoked, shall expire on the ____ day of _____, 19__.

(O.P.M. Reg. 3, Mar. 7, 1941, 6 F.R. 1596; E.O. 8629, Jan. 7 1941, 6 F.R. 191; sec. 2a, Public No. 671, 76th Congress)

Issued this 31st day of May 1941.

E. R. STETTINIUS, Jr,
Director of Priorities.

FOR EXECUTION BY THE PRODUCER, *OR* ANY SUPPLIER *OR* SUB-SUB-SUPPLIER EXTENDING OR RE-EXTENDING THE RATING UNDER THIS ORDER

1. Execute one copy and send to Division of Priorities and execute additional copies and send to each supplier or sub-supplier to whose deliveries the rating is to be extended. Such additional copies of the order are to be signed only by the one extending or re-extending the rating.

2. Additional copies of Order may be obtained from Division of Priorities, Office of Production Management, Washington, D. C., Attention: Joseph L. Overlock.

Before executing, read Sections (c) and (d) of the Defense Supplies Rating Order and Sections 8 and 9 of the Letter of Introduction.

The undersigned acknowledges receipt of the above Order; accepts the same; agrees to all its terms, conditions and requirements; promises to perform the requirements of and to submit to the audits and investigations as provided in Section (f) of said Order; agrees that materials, the deliveries of which are rated under said Order, will not be diverted to the production of other than Defense Supplies as defined in said Order; and agrees he will not apply the rating assigned by said Order and any other preference rating to deliveries of the same materials to fill the same production requirement. Executed this _____ day of _____, 19__.

_____
(Name of producer, supplier or sub-supplier)

By_____
(Authorized officer, partner, sole proprietor or individual)

[F. R. Doc. 41-3907; Filed, May 31, 1941; 11:17 a. m.]

PART 932—CORK AND PRODUCTS AND MATERIALS OF WHICH CORK IS A COMPONENT

General Preference Order No. M–8 to Direct the Use and Distribution of Cork and Products and Materials of Which Cork Is a Component

Whereas it is found that the rapid depletion of stocks of raw cork in the United States and the uncertainty of future shipments from abroad now seriously threaten the requirements of the National Defense Program for cork and products and materials of which cork is a component, and it is further found that this situation of shortage imperils the obtaining of priority for deliveries of such defense materials under present and future Army and Navy contracts and orders and related subcontracts and suborders unless the total present and future supply be conserved and the present and future use and distribution directed, and it is further found that the best interests of the national defense require the exercise of the power conferred upon me to direct and insure such priority; and

Whereas, the following provisions have been adopted by the Office of Price Administration and Civilian Supply as the basis for its civilian allocation program for cork issued simultaneously herewith, now, therefore, *it is ordered that:*

§ 932.1 *General preference order.* (a) For the purposes of this section:

(1) The term "cork" is hereby defined as un-manufactured cork in all forms, including cork wood, bark, waste, shavings, and refuse.

(2) The term "supplier" is hereby defined as any individual, firm, corporation, or association in the United States which engages in the importation, sale, manufacture, or processing of cork.

(3) The term "Defense Orders" is hereby defined as all contracts or orders placed with suppliers for delivery of cork and products and materials of which cork is a component which are to enter directly or indirectly into the manufacture of any material (i) for the Army or the Navy of the United States, or (ii) for the defense of Great Britain, or (iii) for the government of any other country whose defense the President shall have deemed to be vital to the defense of the United States under "An Act to Promote the Defense of the United States" (Public No. 11, 77th Cong., 1st Sess., approved March 11, 1941).

(b) In confirmation of special directions issued by telegram on May 26, 1941, and thereafter, by the Director of Priorities, no supplier, as herein defined, shall, until June 12, 1941, process cork in any manner in excess of fifty percent (50%) of his average daily rate of processing for the calendar month of April, 1941; and during this period all such suppliers shall fill all Defense Orders, as herein defined, for cork and products and materials of which cork is a component in preference to all other contracts or orders. Each such supplier shall execute and furnish, not later than June 15, 1941, to the Division of Priorities, on Form PD–28,[1] an affidavit stating that such supplier has complied with the provisions of paragraph (b) of this section.

(c) On and after June 12, 1941, each such supplier is hereby directed to set aside his entire stock of cork and all finished and semifinished products and materials of which cork is a component, as a reserve, for the fulfillment of present and future Defense Orders and such other orders and uses as may be authorized, from time to time, by the Director of Priorities, from which reserve no deliveries or withdrawals shall be made either for customers of such supplier or for purposes of manufacture or processing by such supplier except pursuant to specific directions issued by the Director of Priorities.

(d) Where there is doubt as to whether a particular contract or order is a Defense Order, before any action is taken thereon, the matter shall be referred to the Division of Priorities, with a statement of all pertinent known facts, for its determination.

(e) All such suppliers shall maintain accurate and complete records and information concerning:

(1) Their inventories of raw materials, work in process, and finished stocks.

(2) All contracts and orders placed with them for cork and products and materials of which cork is a component, setting forth, with respect to each:

(i) The Preference Ratings, if any, assigned to such contracts or orders.

(ii) The name and address of each customer.

(iii) The kinds, quantities, and value of material covered by such contracts.

(iv) The dates of actual deliveries thereunder.

(f) Such suppliers shall, upon request, furnish to the Division of Priorities at any time, and from time to time, all or any part of the foregoing information and such other related information as may be required by the Division of Priorities for the administration of this or any subsequent order. Each supplier shall certify and furnish to the Division of Priorities on or before June 5, 1941, all information required by Form PD–29;[1]

[1] Filed as part of the original document. Requests for copies should be addressed to the Priorities Division, Office of Production Management.

and thereafter, not later than June 20, 1941, and not later than the twentieth (20th) day of each succeeding calendar month, each such supplier shall certify and furnish to the Division of Priorities such information as may be prescribed on forms which will be supplied for the purpose.

(g) Such suppliers shall, from time to time, upon request of the Division of Priorities, submit to an audit and inspection by its representatives with respect to any of the matters specified in paragraph (e) above.

(h) Not later than June 12, for the month of June 1941, and, thereafter, for each subsequent calendar month, the Director of Priorities will issue to each supplier specific directions covering deliveries by such supplier of cork and products and materials of which cork is a component which may be made by such supplier to his customers during such month, and further directing the kinds and quantities of material which may be manufactured or processed by such supplier from stocks on hand. In directing such uses and deliveries for civilian purposes, the Director of Priorities will be guided by the civilian allocation program for cork issued simultaneously herewith by the Office of Price Administration and Civilian Supply.[2]

(i) Except for the special directions issued by the Director of Priorities, contained in telegrams addressed to such suppliers on and after May 26, 1941, which special directions are hereby ratified and confirmed, this section supersedes and cancels all orders and directions heretofore issued by the Director of Priorities or the Division of Priorities applicable to such suppliers, and may be modified or terminated by the Director of Priorities at any time.

(j) This section shall take effect on the 31st day of May 1941, and, unless sooner terminated by direction of the Director of Priorities, shall expire on the 30th day of September 1941. (O.P.M. Reg. 3, Mar. 7, 1941, 6 F.R. 1596; E.O. 8629, Jan. 7, 1941, 6 F.R. 191; sec. 2 (a), Public, No. 671, 76th Congress.)

Issued this 31st day of May 1941.

E. R. STETTINIUS, Jr.,
Director of Priorities.

[F. R. Doc. 41-3945; Filed, June 2, 1941; 1:35 p. m.]

PART 936—PIG IRON, FERRO-ALLOYS, STEEL INGOTS AND CASTINGS, AND ALL CARBON AND ALLOY STEEL PRODUCTS

General Steel Preference Delivery Order No. 1

To all producers of pig iron, ferro-alloys, steel ingots and castings, and all carbon and alloy steel products, and to their customers:

Whereas it is found that the current demand for deliveries of these products under Defense Orders, as hereinafter defined, and for civilian purposes, is greater than the ability of producers to deliver the same in the required amounts upon delivery dates scheduled; and

Whereas deliveries of these products are being delayed and orders therefor rejected due to the aforesaid causes; and

Whereas it is necessary to assure deliveries under Defense Orders and other orders for necessary non-defense purposes when scheduled and to assure that such orders be not rejected; and

Whereas the purposes of this Order may be fulfilled by authority conferred by the several Acts of Congress, Executive Orders and Regulations hereinafter cited:

Now, therefore, it is hereby ordered:

§ 936.1 *General steel preference delivery order.* (a) For the purposes of this section:

(1) "Defense Orders" mean all contracts or orders for delivery of pig iron, ferro-alloys, steel ingots and castings, and all carbon and alloy steel products which are to enter directly or indirectly into the manufacture of any material:

(i) for the Army or the Navy of the United States, or

(ii) for the defense of Great Britain, or

(iii) for the government of any other country whose defense the President shall have deemed to be vital to the defense of the United States under "An Act to Promote the defense of the United States" (Public, No. 11, 77th Congress, First Session, approved March 11, 1941), or

(iv) for the account of the following agencies of the United States Government: The Coast Guard, Maritime Commission, Coast and Geodetic Survey, Panama Canal, National Advisory Committee on Aeronautics, and the Civil Aeronautics Administration.

(b) All producers of pig iron, ferro-alloys, steel ingots and castings, and all carbon and alloy steel products shall fulfill present and future Defense Orders, giving preference to the same, whenever and to the extent necessary to assure deliveries under such orders in accordance with the delivery schedules provided therein.

(c) Deliveries of the aforesaid products by any producer thereof shall hereafter be made in accordance with any written Order, Supplementary Order, or Instruction which may hereafter be issued, if and when the same are hereafter issued.

(d) Any customer of a producer of the aforesaid products whose deliveries thereof under any order have been unreasonably deferred by a producer, and any prospective customer of a producer of the aforesaid products whose order therefor has been rejected by such producer may file with the Division of Priorities, Office of Production Management, Washington, D. C., Report Form PD-32 (Exhibit A attached hereto) duly executed and sworn to by him in the manner herein provided, setting forth the facts called for in said Report Form PD-32 in connection with such deferral or rejection.

Upon receipt of such Report Form PD-32, duly executed and sworn, from a customer, Order Form PD-32a (Exhibit B attached hereto) will be issued to the producer or producers indicated by such customer if the facts set forth by such customer justify such issuance, and thereupon within five days of the issuance of such Order Form PD-32a, the producer or producers to whom the same has been issued shall submit a sworn statement to the Division of Priorities, setting forth in detail the cause or causes for the deferral of the delivery or deliveries, or the rejection of the order or orders specified.

Thereafter, such action will be taken and such Order or Orders issued, as may be fitting and appropriate under the circumstances disclosed by the customer and the producer or producers in question.

Any producer or producers of the aforesaid products to whom an Order Form PD-32a is issued, shall submit to inspection of any and all records, documents and data in connection with the delivery or deliveries, order or orders referred to in said Order Form PD-32a by a representative of the Division of Priorities.

(e) The General Preference Order No. M-5[1] (Part 926) for the conservation and distribution of nickel bearing steel, the General Preference Order No. M-3[2] (Part 923) to direct the distribution of ferro-tungsten, tungsten powder and tungsten compound, and the General Metals Order No. 1[3] (Part 928) to restrict inventory accumulation of certain specified materials, issued by the Director of Priorities, are not affected by the terms and provisions of this Order.

(f) This Order shall take effect on the 29th day of May 1941, and unless sooner terminated shall expire on the 31st day of December 1941. (O.P.M. Reg. 3, Mar. 7, 1941, 6 F.R. 1596; E.O. 8629, Jan. 7, 1941; 6 F.R. 191; sec. 2a, Public, No. 671, 76th Congress; sec. 9, Public 783, 76th Congress.)

Issued this 29th day of May 1941.

E. R. STETTINIUS, Jr.,
Director of Priorities.

[F. R. Doc. 41-3906; Filed, May 31, 1941; 11:17 a. m.]

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[2] 6 F.R. 2681.

[1] 6 F.R. 2236.
[2] 6 F.R. 1675.
[3] 6 F.R. 2239.

Notices

WAR DEPARTMENT.

[Contract No. W 669 qm-11557; O. I. No. 6847]

SUMMARY OF CONTRACT FOR SUPPLIES

CONTRACTOR: BOTANY WORSTED MILLS

Contract for: Textiles.

Amount: $4,110,200.00.

Place: Philadelphia Quartermaster Depot, Philadelphia, Pa. This contract, entered into this first day of April 1941.

Scope of this contract. The contractor shall furnish and deliver * * * yards Cloth, Serge, Olive Drab, * * * * * * yards Flannel, Shirting, Olive Drab, * * *, for the consideration stated totaling four million, one hundred ten thousand, two hundred dollars ($4,110,200.00), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

Delays—Damages. If the contractor refuses or fails to make deliveries of acceptable material or supplies within the time or times specified in Article 1, or any extension or extensions thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof the contractor shall pay to the Government as fixed, agreed, and liquidated damages for each calendar day of delay in the delivery of any articles, the amount as set forth in the specifications or accompanying papers, and the contractor and his sureties shall be liable for the amount thereof.

Liquidated damages. Under the terms and conditions stipulated in Article 17 of this contract, the contractor shall pay to the Government, as liquidated damages, for each calendar day of delay in the delivery of any article, a sum equal to * * * percentum * * * of the price of such article for each day's delay after the time specified for delivery.

Bond: Furnished. Amount: $822,040.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to procurement authority QM 323 P 2-0240 A 0515-01, the available balance of which is sufficient to cover cost of same.

This contract authorized under Procurement Directives No. P-C-228 and P-C-233.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-3958; Filed, June 3, 1941; 9:55 a. m.]

[Contract No. W 535 ac-18243; 4562]

SUMMARY OF CONTRACT FOR SUPPLIES [1]

CONTRACTORS: UNITED AIRCRAFT CORPORATION, PRATT & WHITNEY AIRCRAFT DIVISION

Contract for: Overhaul and Maintenance Parts for Pratt & Whitney Type Engines.

Amount: $1,781,107.20.

Place: Materiel Division, Air Corps, U. S. Army, Wright Field, Dayton, Ohio.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover cost of same:

AC 28 P 82-3037 A 0705-01
AC 28 P 82-1280 A 0705-01

This contract, entered into this 17th day of April 1941.

Scope of this contract. The contractor shall furnish and deliver to the Government Overhaul and Maintenance Parts for Pratt & Whitney Type Engines, for the consideration stated one million seven hundred eighty one thousand one hundred and seven dollars and twenty cents ($1,781,107.20), in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Changes. Where the supplies to be furnished are to be specially manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

Delays—Damages. If the contractor refuses or fails to make deliveries of the materials or supplies within the time specified in Article 1, or any extension thereof, the Government may by written notice terminate the right of the contractor to proceed with deliveries or such part or parts thereof as to which there has been delay.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered, less deductions, if any, as herein provided. Unless otherwise specified, payments will be made on partial deliveries accepted by the Government when the amount due on such deliveries so warrants; or, when requested by the contractor, payments for accepted partial deliveries shall be made whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

Termination when contractor not in default. If, in the opinion of the contracting officer upon the approval of the Secretary of War, the best interests of the Government so require, this contract may be terminated by the Government, even though the contractor be not in default, by a notice in writing relative thereto from the contracting officer to the contractor.

Furnishing of materials and supplies by the Government. The Contracting Officer may at his option from time to time furnish the contractor with materials and/or supplies not readily obtainable in the open market and which are required by the contractor for the performance of this contract.

This Contract authorized under the provisions of Par. 4 g (4), AR 5-240, and section 1 (a), Act of July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-3959; Filed, June 3, 1941; 9:56 a. m.]

[1] Approved by the Under Secretary of War May 2, 1941.

NAVY DEPARTMENT.

[NOs. 83269]

SUMMARY OF CONTRACT FOR ORDNANCE EQUIPMENT

CONTRACTOR ARMA CORPORATION, BROOKLYN, NEW YORK

MAY 31, 1941.

Under date of April 14, 1941, the Navy Department entered into a contract with the Arma Corporation of Brooklyn, New York, for the manufacture of items of Ordnance equipment at a total cost of $1,992,060. The contract is a fixed-price contract and contains clauses relating to delays, damages, loss or damage and insurance, and National Defense Contract Clause.

W. H. P. BLANDY,
Rear Admiral, U. S. N.
Chief of the Bureau of Ordnance.

[F. R. Doc. 41-3956; Filed, June 3, 1941; 9:55 a. m.]

[NOs-85488]

SUMMARY OF CONTRACT FOR ORDNANCE EQUIPMENT

CONTRACTOR: INTERNATIONAL NICKEL CO., INC., NEW YORK, NEW YORK

MAY 31, 1941.

Under date of May 10, 1941, the Navy Department entered into a contract with the International Nickel Co., Inc., of New

York, New York, for the manufacture of items of Ordnance equipment at a total cost of $2,465,845.40. The contract is a fixed-price contract and contains a clause for changes in the cost of labor as well as clauses relating to delays, damages, disclosure of information, and the National Defense Clause.

W. H. P. BLANDY,
Rear Admiral, U. S. N. Chief of the Bureau of Ordnance.

[F. R. Doc. 41-3957; Filed, June 3, 1941; 9:55 a. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-698]

PETITION OF GEORGE VANDE VEN, A CODE MEMBER IN DISTRICT NO. 22, FOR MODIFICATION OF THE EFFECTIVE MINIMUM PRICE FOR CERTAIN COALS PRODUCED AT MINE INDEX NO. 256 IN THAT DISTRICT, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER POSTPONING HEARING

District Board No. 22, an intervener in the above-entitled matter, has filed herein its motion for the entry of an order postponing the hearing in the matter from June 2, 1941, to an early date in July, 1941, and for the holding of the hearing in Billings, Montana. In that motion the District Board represents that George Vande Ven, the original petitioner, is agreeable to the entry of such order.

Good cause appearing for the requested postponement, but it appearing at this time that the matter should be heard in Washington, D. C.;

Now, therefore, it is ordered, That the hearing in the above-entitled matter be, and the same hereby is, postponed from June 2, 1941, until 10 a. m. on July 7, 1941, at Washington, D. C.

It is further ordered, That the time within which petitions of intervention may be filed in this matter be, and the same hereby is, extended to and including July 2, 1941.

In all other respects the Notice of and Order for Hearing entered in this matter on May 6, 1941, shall remain in full force and effect.

Dated: May 31, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-3965; Filed, June 3, 1941; 10:12 a. m.]

[Docket No. 1509-FD]

IN THE MATTER OF ETNA GAMBLIN, DEFENDANT

[Docket No. 1574-FD]

IN THE MATTER OF EMORY SCALF, DEFENDANT

[Docket No. 1575-FD]

IN THE MATTER OF HIRAM N. SMITH, DEFENDANT

[Docket No. 1576-FD]

IN THE MATTER OF ELBERT BARROW, DEFENDANT

[Docket No. 1577-FD]

IN THE MATTER OF JOYCE BASHAN, DEFENDANT

[Docket No. 1578-FD]

IN THE MATTER OF D. B. FIELDS, DEFENDANT

[Docket No. 1579-FD]

IN THE MATTER OF JOHNSON & CHATMAN, DEFENDANT

[Docket No. 1581-FD]

IN THE MATTER OF O. C. PENROD, DEFENDANT

[Docket No. 1582-FD]

IN THE MATTER OF WOLF SWENTNER, DEFENDANT

[Docket No. 1583-FD]

IN THE MATTER OF JOHN E. WILLIAMS, DEFENDANT

[Docket No. 1584-FD]

IN THE MATTER OF W. R. SMITH, DEFENDANT

[Docket No. 1585-FD]

IN THE MATTER OF JOHN NATION, DEFENDANT

[Docket No. 1586-FD]

IN THE MATTER OF B. D. MOORE, DEFENDANT

[Docket No. 1587-FD]

IN THE MATTER OF B. D. MOORE, DEFENDANT

ORDER CANCELLING HEARING

The Director, upon the consent of the defendant in each of the above-entitled matters, having entered a cease and desist order against each such defendant;

It is ordered, That the hearings in the above-entitled matters previously scheduled for May 31, 1941, at Madisonville, Kentucky, be and they are hereby cancelled.

Dated: May 31, 1941.

[SEAL] DAN H. WHEELER,
Acting Director.

[F. R. Doc. 41-3967; Filed, June 3, 1941; 10:12 a. m.]

TO ALL DISTRICT BOARDS, CODE MEMBERS, DISTRIBUTORS, THE CONSUMERS' COUNSEL AND OTHER INTERESTED PERSONS

An application for registration as a distributor has been filed by each of the following and is under consideration by the Director:

Name and address	*Date application filed*
Brown Coal Company, 61 Adams Street, Mobile, Ala	5/ 9/41
Frank E. Browning (Browning & Son), 190 E. Fountain St., Battle Creek, Mich	4/28/41
Harvey Williamson, operating as Gunn Coal Company, 900 Walnut Street, Rome, Ga	4/11/41
Hy-Test Coal Co., Inc., 1437 E. 14th Street, Des Moines, Iowa	5/ 9/41
Inter-State Coal Co., successor to United Collieries, Inc., in The State of Indiana, Indianapolis, Ind	5/ 5/41
Edgar C. Mayo, 900 7 Ave., Columbus, Georgia	4/25/41
Midvale Illinois Coal Corporation, 310 South Michigan Ave., Chicago, Ill	3/21/41
Samuel J. Miller, 96 East College Ave., Westerville, Ohio	5/ 8/41
E. P. Murphy & Son, Inc., 1110 East Main St., Richmond, Va	5/15/41
The Pittsburgh & Ashland Coal & Dock Company, 1510 Foshay Tower, Minneapolis, Minn	5/ 5/41
Fred K. W. Poske, 14437 Abington Road, Detroit, Mich	4/30/41
Preston County Coke Co., Cascade, W. Va	5/ 8/41
E. Russell Shurtleff, 421 First National Bank Bldg., Scranton, Pa	4/18/41
South Canon Mine Leasing Co., South Canon, Colo	5/12/41
John P. Starbuck (Transportation Coal Company), 79 West Monroe St., Chicago, Ill	5/10/41
Arthur T. Ward, 50 Church St., New York, N. Y	5/16/41

Any district board, code member, distributor, the Consumers' Counsel, or any other interested person, who has pertinent information concerning the eligibility of any of the above-named applicants for registration as distributors under the provisions of the Bituminous Coal Act and the Rules and Regulations for the Registration of Distributors, is invited to furnish such information to the Division on or before July 1, 1941. This information should be mailed or presented to the Bituminous Coal Division, 734 15th Street NW., Washington, D. C.

Dated: June 2, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-3966; Filed, June 3, 1941; 10:12 a. m.]

DEPARTMENT OF COMMERCE.

Civil Aeronautics Authority.

[Docket No. 605]

IN THE MATTER OF THE PROPOSED NON-STOP SERVICE BY EASTERN AIR LINES, INC., BETWEEN CHICAGO, ILL., AND NASHVILLE, TENN.

NOTICE OF HEARING

The above-entitled proceeding, being the application of Eastern Air Lines, Inc., to operate non-stop between Chicago, Ill., and Nashville, Tenn., on route No. 10, is assigned for public hearing on June 9, 1941, 10 o'clock A. M., (Eastern Standard Time), in Room 7856 Commerce Bldg., 14th Street and Constitution Ave. NW., Washington, D. C., before an examiner of the Board.

Dated at Washington, D. C., May 31, 1941.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Secretary.

[F. R. Doc. 41-3955; Filed, June 3, 1941; 9:55 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4025]

IN THE MATTER OF NASSIF CANDY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of May, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That John W. Addison, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Wednesday, June 18, 1941, at nine o'clock in the forenoon of that day (eastern standard time) in Room 430, Federal Building, Wheeling, West Virginia.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3950; Filed, June 3, 1941; 9:30 a. m.]

[Docket No. 4456]

IN THE MATTER OF WEBSTER ELECTRIC COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of May, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That James A. Purcell, a Trial Examiner of this commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, June 20, 1941, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3951; Filed, June 3, 1941; 9:39 a. m.]

[Docket No. 4464]

IN THE MATTER OF IRVING COHN, INDIVIDUALLY AND TRADING AS IRVIN NOVELTY COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 27th day of May, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That John W. Addison, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Thursday, June 12, 1941, at one o'clock in the afternoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3952; Filed, June 3, 1941; 9:39 a. m.]

[Docket No. 4475]

IN THE MATTER OF WILLIAM E. BOYER, AND ROBERT J. BOYER, INDIVIDUALLY AND TRADING AS BOYER BROTHERS

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of May, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That John W. Addison, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, June 20, 1941, at nine o'clock in the forenoon of that day (eastern standard time) in Room 203, Post Office Building, Altoona, Pennsylvania.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3953; Filed, June 3, 1941; 9:39 a. m.]

[Docket No. 4489]

IN THE MATTER OF THRIFT SALES CORPORATION, A CORPORATION, TRADING AS FINANCE SERVICE SYSTEM AND AS CHURCH EXTENSION BUREAU AND GUSTAVE HEISS, INDIVIDUALLY, AND AS AN OFFICER OF THE THRIFT SALES CORPORATION

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C. on the 27th day of May, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U.S.C.A., section 41),

It is ordered, That John W. Addison, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, June 9, 1941, at one o'clock in the afternoon of that day (central standard time) at the Sherman Hotel, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-3954; Filed, June 3, 1941; 9:39 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 31-84]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION, DOMINION GAS AND ELECTRIC COMPANY

ORDER EXTENDING EXEMPTION FOR LIMITED PERIOD

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 31st day of May, A. D. 1941.

International Utilities Corporation and Dominion Gas and Electric Company having made application for exemption of Dominion Gas and Electric Company as a holding company pursuant to the provisions of section 3 (a) (5) of the Public Utility Holding Company Act of 1935, and said companies having also made application pursuant to section 3 (b) of said Act for an order exempting Dominion Gas and Electric Company and its subsidiary companies from the provisions of the Act applicable to them as subsidiary companies of International Utilities Corporation, a registered holding company; and

The Commission on the 13th day of April 1939, having made and entered an order exempting Dominion Gas and Electric Company from all those provisions of the Public Utility Holding Company Act of 1935 which would require it to register under said Act because of its directly or indirectly owning, controlling, or holding with power to vote 10% or more of the outstanding voting securities of Canadian Western Natural Gas, Light, Heat and Power Company, Limited; Northwestern Utilities, Limited; and Canadian Utilities, Limited; and also exempting Dominion Gas and Electric Company; Canadian Western Natural Gas, Light, Heat and Power Company, Limited; Northwestern Utilities, Limited; Canadian Utilities, Limited, and other non-utility subsidiaries to the extent specified from certain provisions of the Act applicable to them as subsidiary companies of International Utilities Corporation, a registered holding company;

The said order further providing that the exemptions therein granted shall expire December 31, 1940 without prejudice to the right of International Utilities Corporation and Dominion Gas and Electric Company to apply on behalf of themselves and the subsidiary companies of Dominion Gas and Electric Company for an extension of the time in which such order shall be effective; and

International Utilities Corporation and Dominion Gas and Electric Company having filed on the 10th day of December 1940, an amendment to the application aforesaid requesting that the exemptions heretofore granted by the Commission be extended for a further period beyond December 31, 1940; and

The Commission having by orders dated December 27, 1940, January 25, 1941, March 14, 1941, March 31, 1941 and April 25, 1941, extended the exemptions granted to Dominion Gas and Electric Company and its subsidiaries by order of the Commission dated April 13, 1939, so that the same shall expire on June 1, 1941; and

The Commission desiring to give further consideration to the aforesaid amended application and deeming it not detrimental to the public interest or the interest of investors or consumers that the aforesaid exemptions be further extended for a limited additional period;

It is therefore ordered, That the exemptions granted to Dominion Gas and Electric Company and its subsidiaries by order of this Commission dated April 13, 1939, as extended by orders of this Commission dated December 27, 1940, January 25, 1941, March 14, 1941, March 31, 1941, and April 25, 1941, be and the same hereby are further extended so that the same shall expire on June 16, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 41-3974; Filed, June 3, 1941; 11:27 a. m.]

[File No. 70-314]

IN THE MATTER OF UNITED GAS CORPORATION, UNITED GAS PIPE LINE COMPANY, HOUSTON GULF GAS COMPANY

[File No. 70-315]

IN THE MATTER OF ELECTRIC BOND AND SHARE COMPANY

[File No. 59-21]

IN THE MATTER OF ELECTRIC BOND AND SHARE COMPANY, ELECTRIC POWER & LIGHT CORPORATION, UNITED GAS CORPORATION, HOUSTON GAS SECURITIES COMPANY, UNITED GAS PIPE LINE COMPANY, HOUSTON GULF GAS COMPANY

[File No. 4-33]

IN THE MATTER OF INVESTIGATION OF ORGANIZATION AND FINANCING OF UNITED GAS CORPORATION, ETC.

NOTICE AND ORDER FOR CONSOLIDATED HEARINGS

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 31st day of May, A. D. 1941.

Declarations or applications (or both) having been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by United Gas Corporation ("United"), United Gas Pipe Line Company ("Pipe Line"), and Houston Gulf Gas Company ("Houston Gulf") (File No. 70-314), and by Electric Bond and Share Company ("Bond and Share") (File No. 70-315), and notice having been given of the filing thereof by publication in the FEDERAL REGISTER and otherwise as provided by Rule U-23 under said Act; and

Said declarations and applications being concerned with the following proposed transactions:

A. United proposes to issue and sell $75,000,000 principal amount of First Mortgage and Collateral Trust Bonds, 3¼% Series due 1958. The proceeds of the sale of these securities are to be applied to the following:

(1) To pay principal and accrued interest on redemption of the outstanding $28,850,000 principal amount of United Gas Public Service Company 6% Debentures, due July 1, 1953, the present obligation of United, of which Bond and Share owns $25,000,000 principal amount and Houston Gas Securities Company ("Houston Gas"), a wholly-owned subsidiary of United, owns $3,850,000, all of which debentures will be cancelled;

(2) To pay principal and accrued interest on a 6% demand note dated December 31, 1931, in the principal amount of $25,925,000 made by United to Bond and Share;

(3) To repay open account of $2,000,000 together with accrued interest thereon at the rate of 6% per annum representing the unpaid balance of an original advance of $3,000,000 made during 1938 to United by Bond and Share;

(4) To purchase from Pipe Line, a wholly-owned subsidiary, $6,000,000 principal amount of its First Mortgage and Collateral Trust Bonds, 4% Series due 1961, at their principal amount and accrued interest for cash.

As to the balance of the proceeds the declarations and applications state that the management of United is "considering recommending" to the Board of Directors the use of a substantial portion for the payment of undeclared accumulated dividends on the $7 preferred stock of United which as of May 31, 1941 will amount to $9,502,489.75.

The funds to be received by Houston Gas as a result of the redemption of $3,850,000 principal amount of United Gas Public Service Company 6% Debentures, due July 1, 1953, referred to above, together with other moneys of Houston Gas, will be used for the purpose of redeeming $3,900,000 principal amount of its 5% Collateral Trust Gold Bonds, $440,000 principal amount of which are owned by Electric Bond and Share Company. Houston Gas is a wholly-owned subsidiary of United and is to be merged with United. As a result of such merger United will acquire all of the outstanding $4,585,000 principal amount of United Gas Public Service Company Twenty-Year 6% Gold Debentures, due March 1, 1952 (assumed by United), now held by Houston Gas, and such debentures will be cancelled.

B. Pipe Line proposes to issue and sell $29,000,000 principal amount of First Mortgage and Collateral Trust Bonds, 4% Series due 1961. $23,000,000 principal amount of these securities will be issued to United in exchange for a like principal amount of Pipe Line 6% Debentures, due March 1, 1952, now owned by United, which debentures will be cancelled. The remaining $6,000,000 principal amount of Pipe Line bonds will be sold to United at

their principal amount and accrued interest for cash. This cash will be used to prepay Pipe Line's $1,000,000 five-year 2% Note, dated December 30, 1940, to Bank of the Manhattan Company, New York, N. Y., plus accrued interest. Pipe Line will use the balance, together with approximately $400,000 out of the treasury, to purchase from its subsidiary, Houston Gulf, $5,400,000 principal amount of the latter's First Mortgage Bonds, 4% Series due 1961.

C. Houston Gulf proposes to issue and sell $6,700,000 principal amount of First Mortgage Bonds 4% Series due 1961. As stated above, $5,400,000 principal amount of these securities will be sold to Pipe Line at their principal amount and accrued interest for cash. Houston Gulf proposes to use this cash for the purpose of prepaying its 2½% note, dated August 29, 1940, to the First National Bank of Boston, in the principal amount of $5,400,000, being the unpaid balance thereof. The balance of $1,300,000 principal amount of these bonds will be issued to Pipe Line in exchange for Houston Gulf's 7% Income Note, due January 1, 1945, in the amount of $1,300,000, now owned by Pipe Line, which note will, upon exchange, be cancelled by Houston Gulf.

Pipe Line proposes to pledge the above $6,700,000 principal amount of Houston Gulf bonds together with its holdings of Houston Gulf common stock (in excess of 99.5% of the total outstanding) under the mortgage and deed of trust securing its $29,000,000 principal amount of First Mortgage and Collateral Trust Bonds. The $29,000,000 principal amount of Pipe Line bonds, together with other securities of United subsidiaries, are in turn to be pledged under United's mortgage. Such other securities which are to be pledged are: 100,000 shares of the Capital Stock (100%) of Pipe Line; 50,000 shares of the Capital Stock (100%) of Union Producing Company; $40,000,000 principal amount 6% Debentures, due March 1, 1952, of Union Producing Company; 5,000 shares of the Capital Stock (100%) of United Oil Pipe Line Company; 6% Note, due November 1, 1941, in the principal amount of $325,000 of United Oil Pipe Line Company; 29,494 shares of the Capital Stock (100%) of Compania Mexicana de Gas, S. A., and a 10% Income Demand Note in the principal amount of $200,000 of Compania Mexicana de Gas, S. A.

D. Bond and Share anticipates that approximately $53,959,000 in cash will be received by the company upon the completion of the proposed refinancing of United, described above. That amount, together with approximately $6,041,000 cash in the Company's treasury, a total of $60,000,000, is proposed to be applied towards the reduction of its preferred stock liability (1,155,655 shares of $6 Preferred Stock of no par value and 300,000 shares of $5 Preferred Stock of no par value presently outstanding) by invitation of tenders, purchases in the open market, pro rata payment in liquidation, or by any other appropriate method; and

It appearing to the Commission that it is appropriate and in the public interest and the interests of investors and consumers that a hearing be held with respect to said declarations or applications (or both) and that said declarations shall not become effective or said applications be granted except pursuant to further order of the Commission, and that at said hearings there be considered, among other things, the various matters hereinafter set forth; and

The Commission having data in its official files and records establishing or tending to establish the following matters:

1. United is a corporation organized under the laws of the State of Delaware and maintains principal offices for the doing of business in the City of New York, State of New York. United is a public utility company and is the parent company of numerous subsidiary companies but is not a registered holding company under the Act. United is a subsidiary company of Electric Power & Light Corporation ("Electric"), a registered holding company, which in turn is a subsidiary company of Bond and Share, likewise a registered holding company.

2. The capitalization and surplus of United, per balance sheet as of December 31, 1940, are as follows:

Type of security	Amount outstanding	Principal amount par or stated value
6% debentures due 1953	$28,850,000	[1] $28,850,000
6% Gold Debentures due 1952	4,585,000	4,585,000
$7 Preferred Stock, cumulative, no par	*Shares* 449,822	44,982,200
$7 Second Preferred Stock, cumulative, no par	884,680	88,468,000
Common stock, $1 par	7,818,959	7,818,959
Option warrants (without expiration date) to purchase common stock	*Warrants* 4,864,967	
Paid in surplus (including $113,790.83 other capital surplus)		18,932,639.99
Earned Surplus		25,158,949.18

[1] Of which $25,000,000 principal amount is held by Bond and Share and the balance by a subsidiary of United.
[2] Held by a subsidiary of United.

In addition to the foregoing items, the balance sheet of United as of December 31, 1940, reflects $25,925,000 principal amount of demand notes payable to Bond and Share, and $2,000,000 representing an account payable to Bond and Share. The foregoing statement of capitalization and surplus does not reflect undeclared cumulative dividends in arrears amounting to $10,214,707.92 on the $7 preferred stock ($22.70⅚ per share) and $54,702,713.33 on the $7 second preferred stock ($61.83⅓ per share) of United.

3. The $7 preferred stock of United ranks prior to the $7 second preferred as to dividends and in liquidation. Each of these classes of preferred stock has a liquidating value of $100 per share plus unpaid cumulative dividends. Each share of $7 second preferred stock is entitled to three votes and each share of common stock is entitled to one vote with respect to ordinary business of the corporation. The $7 preferred stock has no general voting power. No provision is made for special voting rights in the event of arrearages in cumulative dividends on either the $7 preferred stock or the $7 second preferred stock.

4. Of the securities of United outstanding, Electric owns 884,680 shares (100%) of the $7 second preferred stock, 3,795,086 shares (48.54%) of the common stock, and 3,800,040 warrants (73.99%). The foregoing securities held by Electric represent 61.58% of the total voting power represented by all securities of United.

5. Of the securities of United outstanding, Bond and Share owns (in addition to the $25,000,000 principal amount of debentures, the demand note in the principal amount of $25,925,000, and the account payable in the amount of $2,000,000 referred to above) 17,310 shares (3.84%) of the $7 preferred stock, 752,666 shares (9.63%) of the common stock, and 151,005 warrants (3.10%). The foregoing securities held by Bond and Share represent 7.19% of the total voting power represented by all securities of United.

6. The capitalization and surplus of Electric, per balance sheet as of December 31, 1940, are as follows:

Type of security	Amount outstanding	Principal amount, par or stated value
Funded debt	[1] $31,871,625.07	[1] $31,871,625.07
$7 preferred stock, cumulative, no par	*Shares* [2] 515,135	
$6 preferred stock, cumulative, no par	255,430⅔	
Second preferred stock, Series A ($7), cumulative, no par	75,439	155,044,139.40
Common stock, no par	[3] 3,452,189	
Option warrants (without expiration date) to purchase common stock	*Warrants* 537,254	
Earned surplus		6,437,916.68

[1] Including $109,000 maturing within one year.
[2] Including 973 shares reacquired.
[3] Including 902 shares reacquired.

The foregoing statement of capitalization and surplus does not reflect undeclared cumulative dividends in arrears amounting to $29,212,970.97 on the $7 preferred stock ($56.81⅔ per share), $12,439,294.90 on the $6 preferred stock ($48.70 per share) and $4,620,638.75 on the $7 second preferred stock ($61.25 per share) of Electric.

7. Of the securities of Electric outstanding Bond and Share owns 485 shares (.09%) of the $7 preferred stock, 13,905 shares (18.43%) of the $7 second preferred stock, 1,976,638 shares (57.25%) of the common stock, and 393,408 warrants (72.23%). The foregoing securities held by Bond and Share represent 46.84% of the total voting power represented by all securities of Electric.

8. For many years prior to November, 1935, the officers and directors of Electric were interlocked with those of Bond and Share. Electric had no officers or employees on its own payroll, its business being transacted entirely by Bond and Share officers and employees under a service contract. Subsequent to Novem-

ber 1935, the service contract was terminated and Electric acquired a small staff of officers and employees who had previously been connected with Bond and Share but who severed all immediate and formal connections at that time. The principal officers of Electric since November 1935, have been interlocked with those of United.

9. United was organized in 1930 by Bond and Share to consolidate the natural gas properties of Louisiana Gas & Fuel Company, a subsidiary of Electric and of Bond and Share, with the properties of (old) United Gas Company which was under the control of other interests. The merger was effected through a plan formulated by Bond and Share whereby—(a) Electric received shares of second preferred stock, common stock, and option warrants of the new company in exchange for securities of Louisiana Gas & Fuel Company, plus a cash payment of $30,000,000 and an undertaking to bring in subscriptions totaling an additional $20,000,000 (which amount was subsequently increased to $30,000,000); (b) the securities of (old) United Gas Company were deposited in exchange for securities of the new company in specified ratios; and (c) all public holders of securities of subsidiaries of (old) United Gas Company were invited to deposit their securities in exchange for securities of the new corporation in specified ratios. The effective date of the merger was June 3, 1930.

10. On March 15, 1930, (approximately two weeks before promulgation of the plan of merger) one Michael Gerome, acting as intermediary for Bond and Share, entered into a loan contract with (old) United Gas Company which provided, among other things, that—(a) Gerome would loan up to $60,000,000 to the (old) United Gas Company to enable it to purchase the "Magnolia" properties then controlled by other interests; (b) Gerome was to receive 100,000 shares of (old) United Gas Company common stock upon the making of the loan and an additional 200,000 shares in the event that a plan of merger similar to that described above was actually promulgated; and (c) the loan was to be secured by a pledge of substantially all the assets of (old) United Gas Company, and was to bear interest at 6% with a 1% commission on each half-yearly renewal.

11. Bond and Share, through Gerome, did actually loan $55,000,000 to United Gas Company and did receive such 300,000 shares, which were deposited under the plan in exchange for 450,000 common shares of the new company. It was contemplated by Bond and Share that the $30,000,000 in cash paid to United by Electric at organization, plus the $20,000,000 in cash to be received by United through the subscriptions which Electric agreed to supply, would be applied to liquidate the loan.

12. None of the foregoing facts regarding the Gerome loan were made known in the published plan of merger or in the various soliciting material issued in connection therewith. The soliciting material discussed the $30,000,000 in cash and the $20,000,000 of subscriptions to be furnished by Electric but no statement was made concerning the $55,000,000 indebtedness to Bond and Share or the anticipated use of funds to be received from Electric in liquidation of said indebtedness.

13. The opening corporate balance sheet of United (as of June 3, 1930) was as follows:

ASSETS

Plant, property and equipment and investments	$214,532,000.00
Cash	30,000,000.00
Notes and loans receivable—subsidiaries and others	8,468,000.00
Subscribers to allotment certificates	30,000,000.00
Total	278,000,000.00

LIABILITIES

Capital stock	199,801,161.25
Subscription to allotment certificates	30,000,000.00
Corporate surplus	48,198,838.75
Total	278,000,000.00

14. This opening balance sheet did not reflect the fact that on the same date Electric paid $6,000,000 into the treasury of United in partial fulfilment of its subscription agreement, or the further fact that United simultaneously loaned to its subsidiary, (old) United Gas Company, the debtor on the Gerome loan, the sum of $35,600,000 which was immediately paid to Bond and Share in partial liquidation of said loan. The balance of $19,400,000 on the Gerome loan became the direct obligation of United upon the merger of that company and (old) United Gas Company on August 15, 1930. On July 31, 1930, the date of the first published balance sheet of United the cash of United amounted to $31,427, and total corporate assets were stated at $294,541,047.

15. On June 2, 1930, the day prior to the effective date of the merger, Electric made the first of a series of advances to United at a 7% interest rate. By the end of June, seven separate advances had been made totaling $9,860,000. On July 1 there was a repayment of $175,000 and immediately thereafter there occurred another series of fifteen advances in twenty-four days, so that by July 25 the balance due was $12,060,000. After a repayment of $85,000 on that date, there were seventeen further advances and two repayments, leaving a balance of $14,845,000 due Electric on September 10, 1930.

16. This entire amount was repaid on September 10, with part of the proceeds of a loan of $15,250,000 from Bond and Share at 6% on the same day. There followed a series of advances from Bond and Share, at the rate of about fifteen or twenty separate transactions per month, until the balance had increased to $45,880,500 on January 16, 1931, in addition to $8,000,000 then owing to American Gas and Electric Company, a subsidiary of Bond and Share. It is uncertain from the records of the Commission whether this balance includes or excludes the balance of $19,400,000 on the Gerome loan.

17. On January 20, 1931 there were repayments to Bond and Share totaling $35,380,500, through application of part of the proceeds of bank loans in the amount of $42,500,000 on the same day. These loans were made by twelve banks, had a maturity of six months, and bore interest at 4½% with a commission of ½% for renewal.

18. On March 18 a further $8,000,000 was advanced by Bond and Share, resulting in a balance of $17,500,000, and thereafter there was a progressive increase in the balance until the figure of $25,925,000 was reached in December 1931. This balance was then converted into a 6% demand note in the same amount which is still outstanding. On November 30, 1935 there was a further open account advance of $3,000,000 at 6%, of which the present unpaid balance is $2,000,000.

19. The 4½% bank loans obtained on January 20, 1931 were renewed for six months on July 20, 1931 at the same rate of interest, but on December 7, 1931 one-half the principal amount or $21,250,000 was repaid with part of the proceeds received from Electric in payment of the remaining $24,000,000 on its original subscription. The balance of $21,250,000 in bank loans was renewed for six months at 5½%, on January 20, 1932, and again for one year beginning July 20, 1932, and finally for three years at 6% beginning July 20, 1933. On July 20, 1936 the banks were repaid in full through application of part of the proceeds received from the sale to Bond and Share at par of $25,000,000 principal amount of United Gas Public Service Company 6% debentures then owned, and subsequently assumed, by United. These debentures have been held by Bond and Share down to the present time.

20. Throughout the period from 1930 to the present time, Bond and Share received 6% interest on all moneys advanced to the United, whether on open account or in the form of notes or debentures. During most of the period since July 20, 1936, such interest payments have been at the rate of $3,235,500 per year. In the previous six years the amount of interest payments fluctuated in proportion to the principal amount of the indebtedness at various dates, but since the end of 1931 the interest payments have always amounted to at least $1,555,500 per year. Bond and Share's total interest income from United since organization has been more than $23,000,000, not including the bonus stock received in connection with the Gerome loan and the interest on that loan.

21. During the period from June 3, 1930 to December 31, 1931, United paid dividends on its preferred stocks totaling $11,233,097.75, and supervision fees to Bond and Share totaling $221,559.61; and

It appearing to the Commission in the light of the foregoing, that it is appro-

priate and in the public interest and the interests of investors and consumers to institute proceedings against Bond and Share, Electric, United, Houston Gas Securities Company ("Houston Gas"), Pipe Line, and Houston Gulf under sections 11 (b) (2), 12 (b), 12 (c) and 12 (f) of the Act in order to determine whether certain orders should be entered or certain terms and conditions imposed pursuant to the provisions of any of said sections (including orders which may be entered or terms or conditions which may be imposed pursuant to Rule U-100 (b) notwithstanding certain exemptions provided by rules of the Commission), all as hereinafter set forth; and

It further appearing to the Commission that it is appropriate and in the public interest and the interests of investors and consumers to institute an investigation pursuant to sections 18 (a) and 18 (b) of the Act concerning (1) the organization and financing of United and its former subsidiary company, United Gas Public Service Company, (2) all intercompany investments, transactions, dealings, and relationships between or among United and its past and present subsidiary companies and between or among any of such companies or their predecessors and Bond and Share, Electric, or any associate or affiliate of either, including the origin and history of all indebtedness stated to be owing by United to Bond and Share, (3) all valuations or revaluations of tangible and intangible property of United and its subsidiary companies made at or about the time of or in connection with the organization of United, (4) certain restatements of property and investment accounts of United and certain of its subsidiary companies made during the year 1932, and (5) certain reorganizations and transfers of property among United and its subsidiary companies during the year 1937; and

It further appearing to the Commission that the foregoing matters are related and involve common questions of law and fact; that evidence offered in respect of each of said matters may have a bearing on the other matters; and that substantial savings in time, effort, and expense will result if the hearings on said matters are consolidated so that they may be heard as one matter and so that evidence adduced in each matter may stand as evidence in the others for all purposes;

It is ordered, That a consolidated hearing on such matters under the applicable provisions of said Act and the Rules of the Commission thereunder be held on June 16, 1941 at 10 A. M. at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue, N. W., Washington, D. C. On such day the hearing room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the consolidated hearing in such matters. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a Trial Examiner under the Commission's Rules of Practice.

It is further ordered, That the Commission reserves the right, if at any time it may appear conducive to an orderly, efficient, or economic disposition of any proceeding or proceedings herein, to order a separate hearing concerning any of such matters, to close the record with respect to any of such matters, or to take action on any such matters prior to the closing of the record on the other matters.

It is further ordered, That without limiting the scope of issues presented by said declarations or applications (File Nos. 70-314 and 70-315) particular attention will be directed at said consolidated hearing to the following matters and questions (in addition to the general subjects of investigation specified above):

1. Whether the bonds proposed to be issued by United, Pipe Line, and Houston Gulf will be "secured" bonds within the requirements of clauses (i), (ii) and (iii) of section 7 (c) (1) (B) of the Act; or if not, whether such securities are to be issued and sold solely for the purposes specified in section 7 (c) (2) of the Act.

2. Whether, and the extent to which, the property and investment accounts of United, Pipe Line, Houston Gulf, and other subsidiary companies of United reflect intangibles, write-ups, property not used or useful, or other inflationary items; and the appropriateness of the continued retention of such items in the property and investment accounts.

3. The adequacy of past and contemplated future provisions for maintenance, depreciation, and depletion by United, Pipe Line, Houston Gulf, and other subsidiaries of United, and the sufficiency of existing depreciation and depletion reserves.

4. The history of all intercompany investments, transactions, dealings, and relationships between or among United and its past and present subsidiary companies and between or among any of such companies or their predecessors and Bond and Share, Electric, or any associate or affiliate of either, including the origin and history of all indebtedness stated to be owing by United to Bond and Share and the history of the management and control of United, as bearing upon the propriety of the proposed application of part of the proceeds to be realized by United from the sale of bonds to the public to retire securities of United now held by Bond and Share and to pay open account indebtedness stated to be owing to Bond and Share, and the propriety of the application of part of such proceeds to pay dividends in arrears on preferred stock of United.

5. Whether the facts and circumstances concerning any of the investments, transactions, dealings, and relationships referred to in item 4 above, or the facts and circumstances concerning any intercompany investments, transactions, dealings and relationships between Bond and Share and Electric, or the facts and circumstances concerning the corporate structure and capitalization of United (particularly, the nature and amount of its outstanding preferred and second preferred stocks and the dividend arrearages thereon) require adverse findings with respect to the proposed issue and sale of bonds by United under the standards of section 7 (d) (1), (2), (3), or (6) of the Act, or make it necessary or appropriate to issue any order or impose any term or condition under the standards of section 12 (c) or 12 (f) of the Act with respect to the proposed retirement of securities held by Bond and Share or the payment of indebtedness stated to be owing to Bond and Share.

6. Whether the pendency of a certain law action (referred to in the declarations or applications) brought by a holder of common stock of United in the Supreme Court, New York County, against United and certain of its past and present directors and against Bond and Share (among other things attacking interest payments on indebtedness of United owned by Bond and Share and demanding an accounting) requires adverse fidings with respect to the proposed issue and sale of bonds by United under the standards of section 7 (d) (1), (2), (3) or (6) of the Act, or makes it necessary or appropriate to issue any order or impose any term or condition under the standards of section 12 (c) or 12 (f) of the Act with respect to the proposed retirement of securities held by Bond and Share or the payment of indebtedness stated to be owing to Bond and Share.

7. Whether the fact that Houston Gulf is a substantially wholly-owned subsidiary of Pipe Line which is a substantially wholly-owned subsidiary of United requires adverse findings with respect to the proposed issue and sale of Houston Gulf bonds to Pipe Line and the proposed issue and sale of Pipe Line bonds to United under the standards of section 7 (d) (1), (2), (3), and (6) of the Act.

8. Whether the proposed maturity dates and sinking fund provisions of the respective bonds proposed to be issued are appropriate in view of the nature of the business conducted by the issuing companies.

9. Whether the provisions of the proposed indentures are adequate to protect the holders of the proposed securities.

10. Whether the proposed selling prices and interest rates of the respective securities proposed to be issued are proper and reasonable, particularly in the case of the securities proposed to be sold by Houston Gulf to its parent company and by Pipe Line to its parent company.

11. The propriety of the proposed application of part of the proceeds to be realized by Houston Gulf from the sale of its 4% bonds to its parent company to prepay an existing 2½% bank note.

12. The propriety of the proposed application of part of the proceeds to be realized by Pipe Line from the sale of its 4% bonds to its parent company to prepay an existing 2% bank note.

13. Whether in all other respects the proposed issue and sale of securities by United, Pipe Line, and Houston Gulf are in conformity with the standards of section 7 (d) (1), (2), (3) and (6) of the Act, and whether the imposition of any terms or conditions is necessary to insure compliance with the conditions contained in section 7 of the Act.

14. Whether the fees, commissions, or other remuneration to be paid in connection with the issue, sale, or distribution of the foregoing securities are reasonable.

15. Whether the proposed acquisition by United of bonds of Pipe Line, a substantially wholly-owned subsidiary, and the proposed acquisition by Pipe Line of bonds of Houston Gulf, a substantially wholly-owned subsidiary, are in conformity with the standards of section 10 of the Act.

16. Whether, with respect to (a) the proposed redemption and retirement of United of its outstanding securities held by Bond and Share and Houston Gas, (b) the proposed redemption and retirement by Houston Gas of its outstanding securities held by Bond and Share and by the public, (c) the proposed redemption and retirement by Pipe Line of outstanding securities held by United, and the proposed prepayment and retirement of its outstanding bank note, and (d) the proposed redemption and retirement by Houston Gulf of outstanding securities held by Pipe Line and the proposed prepayment and retirement of its outstanding bank note, it is necessary or appropriate to enter any order or impose any term or condition pursuant to section 12 (c) of the Act in order to protect the financial integrity of United or any of its subsidiary companies or to safeguard the working capital of United or to prevent the payment of dividends out of capital or unearned surplus or to prevent the circumvention of the provisions of the Act or any rule, regulation, or order thereunder.

17. Whether, with respect to the proposed application by Bond and Share of funds to be received from United and other corporate funds to acquire and/or retire or redeem preferred stock of Bond and Share, it is necessary or appropriate to enter any order or to impose any term or condition pursuant to section 12 (c) of the Act in order to protect the financial integrity of Bond and Share or any of its associate companies or to safeguard the working capital of any of its public utility subsidiary companies or to prevent the payment of dividends out of capital or unearned surplus or to prevent the circumvention of the provisions of the Act or of any rule, regulation, or order thereunder, particularly in view of the pendency of the law suit referred to in item 6.

18. Whether, with respect to all transactions referred to in the declarations or applications which are to be effected between associate companies it is necessary or appropriate in the public interest or for the protection of investors or consumers or to prevent the circumvention of the provisions of the Act or any rule or regulation thereunder to enter any order or impose any term or condition pursuant to the provisions of section 12 (f) of the Act.

19. Whether pending final liquidation of the indebtedness stated to be owing by United to Bond and Share (whether evidenced by securities or on open book account) it is necessary or appropriate, in view of any of the matters referred to above, to enter any order or impose any term or condition under the provisions of section 12 (b), 12 (c) or 12 (f) of the Act prohibiting or restricting the payment of interest or principal on any of such indebtedness.

20. Whether it is necessary or appropriate, in view of any of the matters referred to above, to enter any order or to impose any term or condition pursuant to section 12 (c) of the Act prohibiting or restricting the payment of dividends in arrears or current or future dividends on any class of capital stock of United.

21. Whether United is a "company which is not a holding company" or a "company whose principal business is that a public-utility company" within the meaning of the last sentence of section 11 (b) (2) of the Act; and if so, what steps, if any, are necessary and shall be required to be taken by Bond and Share, Electric, or United pursuant to section 11 (b) (2) of the Act in order to distribute voting power fairly and equitably among security holders of United; or if not, what steps, if any, are necessary and shall be required to be taken by Bond and Share, Electric, or United pursuant to section 11 (b) (2) of the Act to insure that the corporate structure or continued existence of United does not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute voting power among security holders, of the holding company systems of Bond and Share, Electric, or United.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3973; Filed, June 3, 1941; 11:27 a. m.]

[File No. 31-510]

IN THE MATTER OF MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 2nd day of June, A. D. 1941.

An application for exemption pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 18, 1941, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 13, 1941.

The matter concerned herewith is in regard to the exemption of Massachusetts Mutual Life Insurance Company as a holding company because of its holding of more than 10% of the voting securities of Indiana Gas & Chemical Corporation, a public utility holding company. Applicant claims that it is only temporarily a holding company having acquired such securities in liquidation of a bona fide debt previously contracted.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3971; Filed, June 3, 1941; 11:27 a. m.]

[File No. 812-22]

IN THE MATTER OF PETROLEUM AND TRADING CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of June, A. D. 1941.

Application having been duly filed by the above named applicant for an order of the Commission under and pursuant to the provisions of section 6 (c) of the Investment Company Act of 1940 exempting it from all of the provisions of this title;

It is ordered, That a hearing on the matter of this application be held on June 16, 1941 at 10:00 o'clock in the forenoon of that day in the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise the interested parties where such hearing will be held.

It is further ordered, That William W. Swift, Esquire, or any officer or officers of the Commission designated by it for that purpose shall preside at such hearing on such application. The officer so designated to preside at any such hearing is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42 of the Investment Company Act of 1940 and to Trial Examiners under the Commission's Rules of Practice.

Notice of such hearing is hereby given to the above named applicant and to any other person or persons whose participation in such proceedings may be in the public interest for the protection of investors.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-3972; Filed, June 3, 1941; 11:27 a. m.]